

6 OCTOBER 1947

I N D E X
Of
WITNESSES
(cont'd)

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1 A Matters pertaining to military discipline and
2 morals were customarily handled as top secret matters.

3 MR. BANNO: That concludes my redirect,
4 your Honor.

5 MR. KATO: I am Counsel KATO, for the defendant
6 DOHIHARA. There is one additional question I should
7 like to ask the witness.

8 THE PRESIDENT: You are too late. You are
9 right out of order. Is it a question in further
10 re-examination?

11 MR. KATO: Only one point. I should like to
12 ask just one question relative to prosecution document
13 1005-21, which is now court exhibit 3302.

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REDIRECT EXAMINATION (Continued)

1 BY MR. KATO:

2 Q This exhibit reads as follows: From Major
3 HARUKI of DOHIHARA Agency to Vice Minister and also
4 to Lieutenant General DOHIHARA. What is the meaning
5 of this "To: Lieutenant General DOHIHARA"?
6

7 A Because Major HARUKI and Lieutenant General
8 DOHIHARA were located at different places this par-
9 ticular document was sent through the Ministry of
10 War to Lieutenant General DOHIHARA.

11 Q This telegram is dated April 21, 1939.
12 Had not Lieutenant General DOHIHARA already been
13 appointed commander of the 5th Army and was he not
14 then in Tokyo in order to take over his new post?

15 A I have no exact recollection but I believe
16 that this communication was sent to the War Ministry
17 with the request that it be communicated to Lieuten-
18 ant General DOHIHARA because he was then in Tokyo.

19 Q Then let me ask you: Do you know when
20 Lieutenant General DOHIHARA assumed his new post as
21 Commander of the 5th Army?

22 A I have no recollection.

23 Q My next point: This telegram purports to
24 come from Major HARUKI of the DOHIHARA Agency. Is
25 it not a fact that already by this time Colonel

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20 Lieutenant General DOHIHARA assumed his new post as
21 Commander of the 5th Army?

22 A I have no recollection.

23 Q My next point: This telegram purports to
24 come from Major HARUKI of the DOHIHARA Agency. Is
25 it not a fact that already by this time Colonel

1 registration of the DOHIHARA Agency? In short,
2 what I want to ask you is this: Was not this
3 telegram actually sent after DOHIHARA had already
4 left Shanghai by the KAGESA Agency?

5 A I do not remember.

6 MR. KATO: Thank you.

7 MR. BANNO: May the witness be excused?

8 THE PRESIDENT: He is excused on the usual
9 terms.

10 (Whereupon, the witness was excused.)

11 MR. BANNO: We now offer in evidence the
12 affidavit of the witness KAGESA, Sadaaki, defense
13 document No. 2606, who remains so ill in the hospital
14 that he cannot appear in court.

15 We present defense document No. 2663, a
16 certificate of attending physician regarding his
17 illness.

18 THE PRESIDENT: Judge Nyi.

19 JUDGE NYI: Your Honor, we object to this
20 form of introducing the said affidavit because the
21 witness will not be available for cross-examination.

22 This witness has once before testified before
23 a commission at the First National Hospital only
24 about ten minutes' ride from this Tribunal.

25 THE PRESIDENT: If he were here, how much of

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1 Q You further know that it was the position
2 of Admiral NOMURA that this section 14 was not re-
3 ceived in time to enable the decoding and the typing
4 and the delivery of this note within the time before
5 the attack on Pearl Harbor, do you not?

6 A It was only later that I learned that that
7 was the state of affairs at the time.

8 Q Now, who were your seniors who directed
9 that you delay the sending of part 14?

10 A As I have been saying, the 14th section was
11 not delayed; nor was there any intention to delay it.
12 With respect to the cabling of the telegram, the naval
13 high command was extremely interested in this data, and
14 after discussing matters with them and in accordance
15 with the instructions of my seniors to see that the
16 secret was preserved with utmost care in the filing
17 of this message, arrangements were made to send the
18 note, to telegraph the note in sections and at
19 different times.

20 Q Well, suppose you tell us who your seniors
21 were. That may be shorter.

22 A My seniors were Foreign Minister TOGO and
23 Vice-Foreign Minister NISHI.

24 Q You have stated in your affidavit that you
25 attended all the Liaison Conferences during the TOGO

1 Q Now, the Chief of the Military Affairs Bureau
2 was present also, wasn't he?

3 A The Chief of the Military Affairs Bureau
4 of the War Ministry and the Chief of the Naval Affairs
5 Bureau of the Navy Ministry attended the meetings as
6 secretaries.

7 Q And MUTO at this time was present as the
8 Chief of the Military Affairs Bureau and OKA as Chief
9 of the Naval Affairs Bureau?

10 A Yes.

11 Q Now, the Chief Secretary of the Cabinet was
12 also present, wasn't he?

13 A The Chief Secretary of the Cabinet attended
14 as one of the secretaries of the conference.

15 Q And the Chief Secretary at this time was
16 HOSHINO, was he not?

17 A Yes.

18 Q The Finance Minister attended also?

19 A Yes.

20 Q And that was the accused KAYA?

21 A That is so.

22 Q Now, you have also told us that you attended
23 most of the Liaison Conferences that were held during
24 the third KONOYE Cabinet?
25

A Yes, at the time of the third KONOYE Cabinet.

1 In meeting that proof, rather those innuendoes,
2 the defense is undertaking to show the hour at which
3 the messages were sent, the hour at which they were
4 received in the United States -- I didn't say "by the
5 United States" -- and the hour by which translation
6 and processing could with diligence have been performed.
7 And the document now under consideration showed nothing
8 more or less than the fact of the hour at which the
9 several messages were heard in the United States, were
10 received in short.

11 If this proof is relevant to the issue so
12 framed by the prosecution, I feel that the mathematical
13 argument founded on the fact that the number of the
14 document is 1500 something, is of no moment. It doesn't
15 matter where the proof comes from.

16 I therefore submit that this document is clearly
17 relevant to one of the issues in the case.

18 THE PRESIDENT: There was no cross-examination
19 of the last two witnesses. I take it that in the
20 absence of anything to the contrary to indicate it, the
21 prosecution do not contest what they said. There was a
22 reference to earlier evidence by prosecution's witness
23 which may imply some challenge of the statements we have
24 heard from the box this morning, but to that extent only.
25

1 judicially determine this question in order that this
2 case be not unduly prolonged.

3 THE PRESIDENT: There are no shortcuts to
4 proper judicial determinations. Cross-examination
5 still remains the principal means of testing credit.
6

7 MR. TAVENNER: That is perfectly true in
8 the view of the prosecution, and in important and
9 material things we propose to resort to it where we
10 think there is a reasonable chance of developing the
11 prosecution's theory.

12 THE PRESIDENT: We will recess for fifteen
13 minutes.

14 (Whereupon, at 1050, a recess was
15 taken until 1110, after which the proceed-
16 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International Mil-
2 itary Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: If the Tribunal please, I am
5 confident that no such rule as the one announced exists
6 in the United States. I am certain it does not exist
7 in any court in which I have ever practised.

8 THE PRESIDENT: What rule are you referring
9 to? State the rule so that we know.

10 I suggest that cross-examination is always
11 expected where the witness makes an adverse state-
12 ment, where you have materials on which you can cross-
13 examine, where his statement is not obviously foolish,
14 and where you have not already covered it by your
15 evidence. I know nothing about your United States
16 rules. I am not a United States lawyer. But I do
17 know something about British rules and I do claim
18 that what I say is in accordance with British rules
19 and practice. I have had the advantage of discussing
20 this matter with my colleagues during the recess and
21 I know of no dissent from the rule as stated to you.
22 No cross-examination is called for where a witness is
23 obviously talking foolishly, or is of no consequence;
24 but you are not suggesting for one second that those
25 last two witnesses are in that class. My remarks are

1 directed to those two witnesses, their testimony.

2 MR. TAVENNER: I understood your Honor to
3 state that the prosecution, by failure to cross-
4 examine a witness, agreed with the testimony of the
5 witness.

6 THE PRESIDENT: Your failure to cross-examine
7 one of those witnesses surprised at least two British
8 judges here, if not three; and at least two, if not
9 three, thought you were admitting what he said.

10 MR. TAVENNER: If your Honor will permit me
11 to continue with the statement that I propose to make,
12 I think I can make myself clear.

13 THE PRESIDENT: It is no use discussing the
14 different legal systems, it is only a waste of time
15 so far as I can gather. You can always make yourself
16 clear. You can always say that, no matter what my
17 misapprehension may have been, you intended this, that
18 or the other thing, and I will always take it into
19 account, and so will the other judges. That is suffic-
20 ient. There is no use in discussing the difference
21 between the American system, the British system,
22 the Dutch system, or the Russian system; we have no
23 time for that here, nor would it lead us anywhere.
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22 the Dutch system, or the Russian system; we have no
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1 counsel for one of the other accused, to cross-
2 examine on a point that was raised to the Court
3 in a question. I believe that this matter goes
4 deeper than what appears on the surface. I do want
5 to reserve my rights until a future time, if the
6 Court will allow.

7 THE PRESIDENT: The Court has no intention
8 of giving a decision today, nor until after it has
9 heard this matter fully argued. I mentioned it in
10 chambers, I think, and I believe now I have the concurr-
11 ence of all my colleagues, that we will not undertake
12 to advise the accused what they should do. We will
13 decide what are their rights and obligations under
14 the Charter after hearing argument. We will adjourn
15 this matter to be argued later at a time to be fixed.

16 Major Blakeney.

17 MR. BLAKENEY: I return to exhibit 2971.

18 THE PRESIDENT: It has been suggested to me
19 that the prosecution might like to cross-examine the
20 witness YAMAMOTO. He has been in court or about the
21 court since half-past eleven.

22 MR. BLAKENEY: I have just discussed the
23 matter with Mr. Tavenner and we thought it is better
24 to commence at 3 o'clock.

25 Meanwhile, then, I shall return to exhibit

1 ness was on the stand, but its contents were not known
2 to us until after the adjournment of court. Now,
3 there may be other documents which we will find it
4 important to cross-examine this witness upon. We
5 will hurry our investigation as much as we can with
6 a view to recalling this witness if it seems advis-
7 able.

8 You may take the witness.

9 THE PRESIDENT: There are certain questions
10 which I propose to put to the witness on behalf of a
11 Member of the Tribunal. These questions refer to
12 Exhibit 2975, the Outline of Future Diplomatic Measures.

13 The first question is as follows:

14 BY THE PRESIDENT:

15 Q Did you discuss the contents of this document
16 with the Foreign Minister, TOGO?

17 A With regard to that document, I don't have
18 any clear understanding. May I see the document?

19 Q That is the document you were recalled for
20 cross-examination on. You surely know what I am talking
21 about. I described it as the Outline of Future Diplo-
22 matic Measures vis a vis the United States, if that
23 makes it clear. I don't think it is necessary to tell
24 you that.
25

 A This document was written by me in which I

NOTE:

 The attached pages are corrected
 pages and should be substituted for the
 corresponding pages in the record.

1 gathered together and assembled my personal ideas.
2 It was never presented to Foreign Minister TOGO.

3 Q The second question is this: On what occa-
4 sion was the alteration in the document made by you?

5 A This document is one of the several docu-
6 ments prepared by my subordinates following the
7 receipt of the United States note of November 26,
8 setting forth his views and opinions thereon. It
9 was the general practice for several people or a number
10 of people concerned with the matter to set forth their
11 opinions, and it was my duty to analyze and adopt
12 certain parts and eradicate certain parts. The cir-
13 cumstances under which this document was prepared is
14 that this document was prepared and presented to me by
15 one of my subordinates, upon which I made certain re-
16 visions.

17 Q Was that done after consultation with the
18 Foreign Minister?

19 A It was entirely my personal idea, and no
20 consultation was held with the Foreign Minister.

21 Q Was the document printed?

22 A The document submitted by my subordinate was
23 typed out, but the revisions made thereon by me was
24 not printed. This document was not an officially
25 approved draft; it was merely a personal draft made

YAMAMOTO

CROSS

26,320

up by me, and that was the state of the document to
the very last. Hence this document does not bear
neither my signature nor my seal.

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1 MR. TAVENNER: If the Tribunal please,
2 the document now being presented includes the
3 interlineations that appear in Document 2975 and
4 which are underscored in the copy of that document.

5 THE PRESIDENT: Will you give us copies of
6 the document last admitted -- English translations --
7 showing the interlineations?

8 MR. TAVENNER: Comparison will show that
9 in the document just presented it appears as one
10 continuous document. There are no interlineations
11 that appear above the line. When the document is
12 given a number I will read the interlineated portions.

13 THE MONITOR: Mr. Tavenner, can we have
14 the Japanese copy or the English copy, either one?

15 MR. TAVENNER: It will be only three or
16 four lines.

17 THE MONITOR: Then it will be the transla-
18 tion in substance, not the exact words. Will that
19 be all right?

20 MR. TAVENNER: Yes.

21 THE CLERK OF THE COURT: Prosecution
22 document without document number, being copy of
23 Exhibit 2975 with interlineations, will receive
24 exhibit number 2975-A.

25 (Whereupon, the document above

1 we don't have the opportunity of checking to see
2 how far the excerpt is a proper one and how far it
3 ought to be supplemented. May I draw the attention
4 of the Tribunal in that connection to page 24,897
5 of the record, where, on the testimony of the witness
6 OKADA, we drew the attention of the Tribunal to the
7 fact that he had produced only parts of documents
8 which he said were in his possession. We asked where
9 the whole of the documents were. First of all, we
10 were told they were in the hands of Dr. KIYOSE; then
11 we were told that they had been filed in the Clerk's
12 office. The latter statement turns out to be com-
13 pletely erroneous, and we haven't seen them yet.

14 THE PRESIDENT: Mr. Carr, we judicially
15 notice the Pact of Paris and everything which is
16 necessary for its correct interpretation. Some of us
17 may think that we can look beyond the clear words of
18 the pact to find out what is the real meaning from the
19 statements made by those responsible for bringing it
20 about. Others may take the view that we are bound by
21 the clear words. At all events, it may not be
22 necessary to prove these statements by Mr. Kellogg,
23 perhaps, or Mr. Stimson, or Mr. Briand. We should
24 judicially notice this if they really bear on the in-
25 terpretation of the treaty. But that is a matter that

SAWAMOTO

DIRECT

1 whose long experience in administrative affairs of the
2 Japanese navy qualifies him to testify authoritatively
3 concerning the organization of the Japanese navy with
4 special reference to the division of duties between the
5 Navy Ministry and the Naval General Staff.

6 At the same time we offer in evidence defense
7 document 1958, which is a specially-prepared chart show-
8 ing graphically the relation of the Emperor, the Cabinet,
9 the Navy Ministry and the Naval General Staff, with
10 subordinate offices. This is offered to assist the Tri-
11 bunal in following the testimony of the witness SAWAMOTO.

12 I call the witness SAWAMOTO.

13 Y O R I O S A W A M O T O, called as a witness in be-
14 half of the defense, being first duly sworn,
15 testified through Japanese interpreters as
16 follows:

17 DIRECT EXAMINATION

18 BY MR. ROBERTS:

19 Q Please state your name and address.

20 A SAWAMOTO, Yorio, 110 Takinokizaka, Meguro-ku,
21 Tokyo.

22 MR. ROBERTS: May the witness be shown defense
23 document No. 1973?

24 (Whereupon, a document was handed to
25 the witness.)

NOTE:

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pages and should be substituted for the
corresponding pages in the record.

ENOMOTO

DIRECT

1 the principal rules of international law which are
2 taught to the Armies and Navies. There is no contest
3 about that. This doesn't establish any more.

4 MR. ROBERTS: If the Court will take judicial
5 notice that these precepts of international law were
6 taught at the Japanese naval college, and then we will
7 be satisfied with this witness' testimony to that effect
8 will be unnecessary.

9 THE PRESIDENT: I suppose the prosecution's
10 case is not that it was not taught but that it was not
11 acted upon. But, we would like to hear from Mr.
12 Tavenner with a view to shortening this.

13 MR. ROBERTS: May I just point out that my
14 reference has been to Section 7 of the Indictment
15 which states that, "The educational systems, civil,
16 military and naval, were used to inculcate a spirit
17 of totalitarianism, aggression, desire for war,
18 cruelty and hatred of potential enemies."

19 MR. TAVENNER: If the Tribunal please, the
20 prosecution does not contest the assertion by
21 counsel that international law was taught in the mili-
22 tary and naval colleges.

23 THE PRESIDENT: We are overdue on the recess.
24 We will adjourn until half past one.
25

(Whereupon, at 1202, a recess was taken.)

AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Major Moore.

LANGUAGE ARBITER (Major Moore): If the Tribunal please, exhibit 2980, defense document 1973, was referred to the Arbitration Board.

On page 5, line 21, after "was" insert "not."

THE PRESIDENT: Thank you.

- - -

Mr. Tavenner.

J U J I E N O M O T O, resumed the stand and testified, through Japanese interpreters, as follows:

MR. TAVENNER: If the Tribunal please, continuing with my statement before the close of the morning's session, I didn't object to the introduction of evidence regarding international law being taught in military and naval colleges. I objected on the ground that it was repetitive in the form that it appeared in this affidavit and at great and needless length.

ENOMOTO

DIRECT

26,464-1/2/

THE PRESIDENT: Mr. Roberts.

1 MR. ROBERTS: It may seem that at certain
2 points there is repetition, but I think the Court
3 will find that the excerpts mentioned are distinct
4 and separate in each case.
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1 THE PRESIDENT: We will discharge him on the
2 usual terms. I don't think it will be necessary to
3 recall him.

4 (Whereupon, the witness was excused.)

5 MR. ROBERTS: Mr. Brannon will now pro-
6 ceed with additional proof.

7 THE PRESIDENT: Mr. Brannon.

8 MR. BRANNON: We come now to treat of the
9 prosecution charge that Japan continually and progress-
10 ively fortified the Islands for which she held a man-
11 date from the League of Nations, in violation of
12 treaty articles 15, 17, 18, and 31 of the Indictment.

13 I call the witness Hidemi YOSHIDA.

14 I wish to notify the Language Section we may
15 deviate from time to time from the prepared running
16 commentary.

17 THE MONITOR: Mr. Brannon, if you do deviate
18 from the running commentary, will you kindly let us
19 know?

20 MR. BRANNON: Yes.
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1 such order by the Foreign Ministry or by the Navy
2 Ministry.

3 "I recall many instances of foreign visitors'
4 calling on me at Palao during my stay there.

5 "(Signed) HAYASHI, Hisao."

6 You may examine.

7 THE PRESIDENT: Brigadier Quilliam.

8 BRIGADIER QUILLIAM: May it please the
9 Tribunal, there will be no cross-examination.

10 THE PRESIDENT: The witness is excused on
11 the usual terms.

12 (Whereupon, the witness was excused.)

13 THE PRESIDENT: Mr. Roberts.

14 MR. ROBERTS: We call as our next witness
15 Shunsuke KONDO.
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KONDO

DIRECT

26,494-1/2

1 SHUNSUKE KONDO, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified, through Japanese interpreters, as
4 follows:

DIRECT EXAMINATION

5 BY MR. ROBERTS:

6 Q Please state your name and address.

7 A My name is KONDO, Shunsuke. My address:
8 269 1-Chome, Akatsutsumi-machi, Setagaya-ku, Tokyo.

9 MR. ROBERTS: May the witness be shown defense
10 document 1513.
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KONDO

DIRECT

26,494-1/2

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2 behalf of the defense, being first duly sworn,
3 testified, through Japanese interpreters, as
4 follows:

DIRECT EXAMINATION

5 BY MR. ROBERTS:

6 Q Please state your name and address.

7 A My name is KONDO, Shunsuke. My address:
8 269 1-Chome, Akatsutsumi-machi, Setagaya-ku, Tokyo.

9 MR. ROBERTS: May the witness be shown defense
10 document 1513.
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1 hostilities and thought that there should be some
2 measures taken to afford them security."

3 You may examine.

4 THE PRESIDENT: Brigadier Quilliam.

5 BRIGADIER QUILLIAM: May it please the
6 Tribunal, we do not wish to cross-examine.

7 THE PRESIDENT: The witness is released on
8 the usual terms.

9 (Whereupon, the witness was excused.)

10 MR. ROBERTS: We call the witness Junichi
11 OBARA.

OBARA

DIRECT

26,498-1/2

1 J U N I C H I O B A R A, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified, through Japanese interpreters, as fol-
4 lows:

5 DIRECT EXAMINATION

6 BY MR. ROBERTS:

7 Q Please state your name and address.

8 A My name is OBARA, Junichi. My address: 60
9 1-Chome, Tamagawa Okusawa-machi, Setagaya-ku, Tokyo.

10 MR. ROBERTS: May the witness be shown
11 defense document 1515.

12 Q Please examine that document and tell us
13 whether or not it is your sworn affidavit.

14 A This is my affidavit without mistake.
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MUKAWA

DIRECT

1 N I S A B U R O M U K A W A, called as a witness
2 on behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as fol-
4 lows:

DIRECT EXAMINATION

BY MR. ROBERTS:

Q Will you please state your name and address?

A MUKAWA, Nisaburo. My address is: 601 4-Chome,
Koenji, Suginami-ku, Tokyo.MR. ROBERTS: May the witness be shown
defense document 1517.Q Please examine this document and tell us
whether or not it is your sworn affidavit?

A This is undoubtedly mine.

Q Are the contents true and correct?

A They are correct.

MR. ROBERTS: I offer in evidence defense
document No. 1517.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Defense document No. 1517
will receive exhibit No. 2994.

(Whereupon, the document above
referred to was marked defense exhibit
No. 2994 and received in evidence.)

THE PRESIDENT: We will recess for fifteen

MUKAWA

DIRECT

26,503

1 N I S A B U R O M U K A W A, called as a witness
2 on behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as fol-
4 lows:

5 DIRECT EXAMINATION

6 BY MR. ROBERTS:

7 Q Will you please state your name and address?

8 A MUKAWA, Nisaburo. My address is: 601 4-Chome,
9 Koenji, Suginami-ku, Tokyo.

10 MR. ROBERTS: May the witness be shown
11 defense document 1517.

12 Q Please examine this document and tell us
13 whether or not it is your sworn affidavit?

14 A This is undoubtedly mine.

15 Q Are the contents true and correct?

16 A They are correct.

17 MR. ROBERTS: I offer in evidence defense
18 document No. 1517.

19 THE PRESIDENT: Admitted on the usual terms.

20
21 CLERK OF THE COURT: Defense document No. 1517
22 will receive exhibit No. 2994.

23 (Whereupon, the document above
24 referred to was marked defense exhibit
25 No. 2994 and received in evidence.)

THE PRESIDENT: We will recess for fifteen

1 lie on the slightest provocation or from mere ex-
2 pedience."

3 Signed, the 20th day of May, 1947.

4 You may cross-examine.

5 THE PRESIDENT: Brigadier Quilliam.

6 BRIGADIER QUILLIAM: May it please the
7 Tribunal, we do not cross-examine.

8 MR. ROBERTS: May the witness be excused
9 on the regular terms?

10 THE PRESIDENT: He is excused accordingly.

11 (Whereupon, the witness was
12 excused.)

13 MR. ROBERTS: We next call the witness
14 SUZUKI, Suguru.
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SUZUKI

DIRECT

26,507-1/2

1 S U G U R U S U Z U K I, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified, through Japanese interpreters, as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. ROBERTS:

7 Q Please state your name and address.

8 A My name is SUZUKI, Suguru; my address,
9 105 Wakabayashi Machi, Setagaya-ku, Tokyo.

10 Q May the witness be shown defense document
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Q Thank you. This was 1943?

1 A Yes. I heard from Ambassador OSHIMA of the
2 talk he had had with Hitler, and the Ambassador tele-
3 graphed the contents of that talk to Tokyo, and at the
4 end of the telegram there was a request that this mat-
5 ter also be notified to the Minister of the Navy. I
6 think it was about four or five days after the telegram
7 had been sent by the Ambassador to Tokyo, that is to
8 say, around the 5th or 6th of March, I received a
9 telegram from the Minister of the Navy. The telegram
10 said that the Japanese Navy would accept the offer of
11 Hitler with gratitude and requested that OSHIMA be
12 asked to convey those thanks to the Fuehrer. And
13 furthermore, the telegram included instructions to me
14 to negotiate with the German Naval authorities with
15 regard to the navigation of the submarines. Accord-
16 ing to my recollection Hitler was not in Berlin at
17 that time, and so Ambassador OSHIMA called on the
18 Foreign Minister, Ribbentrop, and asked him to convey
19 the thanks of the Japanese Navy to him. According to
20 my recollection this question arose between Ribbentrop
21 and OSHIMA for the first time on this occasion.

23 Q Have you ever heard the contents of the nego-
24 tiations between Ribbentrop and OSHIMA on this matter?

25 A Yes.

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

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Q Thank you. This was 1943?

1 A Yes. I heard from Ambassador OSHIMA of the
2 talk he had had with Hitler, and the Ambassador tele-
3 graphed the contents of that talk to Tokyo, and at the
4 end of the telegram there was a request that this mat-
5 ter also be notified to the Minister of the Navy. I
6 think it was about four or five days after the telegram
7 had been sent by the Ambassador to Tokyo, that is to
8 say, around the 5th or 6th of March, I received a
9 telegram from the Minister of the Navy. The telegram
10 said that the Japanese Navy would accept the offer of
11 Hitler with gratitude and requested that OSHIMA be
12 asked to convey those thanks to the Fuehrer. And
13 furthermore, the telegram included instructions to me
14 to negotiate with the German Naval authorities with
15 regard to the navigation of the submarines. Accord-
16 ing to my recollection Hitler was not in Berlin at
17 that time, and so Ambassador OSHIMA called on the
18 Foreign Minister, Ribbentrop, and asked him to convey
19 the thanks of the Japanese Navy to him. According to
20 my recollection this question arose between Ribbentrop
21 and OSHIMA for the first time on this occasion.

23 Q Have you ever heard the contents of the nego-
24 tiations between Ribbentrop and OSHIMA on this matter?

25 A Yes.

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

1 the Vice-Minister of the Navy, when you departed for
2 Berlin. Do you know where the original instructions
3 may have been filed?

4 THE WITNESS: The instruction was not in writ-
5 ing; it was given to me orally.

6 THE PRESIDENT: Why do you say they were read
7 to you?

8 MR. ROBERTS: When you say in your affidavit
9 "they read", you mean from writing?

10 MR. TAVENNER: If your Honor please, I object
11 to the leading question.

12 THE PRESIDENT: It is obviously leading. The
13 objection is upheld.

14 How do you justify that expression in
15 your affidavit, "they read", if they were not in
16 writing? The translation may be at fault. We don't
17 know.

18 THE MONITOR: Mr. President, the Japanese text
19 does not use the word.

20 MR. ROBERTS: It is a matter of translation,
21 if the Court please, and this particular phrase should
22 be referred for review.

23 THE PRESIDENT: My attention is drawn to the
24 fact that before that he says in his affidavit that the
25 Minister's instructions were handed to him. I think we

ought to invoke Major Moore's assistance.

1 MR. ROBERTS: Yes. I ask that that be referred
2 to Major Moore.

3 THE WITNESS: I stated that I received the
4 instructions orally. I stated in my affidavit that the
5 instructions were -- it may have carried a different
6 meaning, but I used the words that "it was transmitted
7 to me."

8 THE PRESIDENT: Well, we will leave that for
9 another time.

10 Cross-examine.

11 CROSS-EXAMINATION

12 BY MR. TAVENNER:

13 Q On page 4, Section 2 of your affidavit, you
14 refer to the general subject of the military agreement,
15 the military agreement of January 18, 1942. When did
16 the negotiations for that agreement begin?

17 A I have no definite recollection of date, but
18 it was one or two days after I received the first report
19 of the opening of hostilities on the 8th of December that
20 negotiations were begun, upon receiving a telegram.

21 Q What preliminary talks had been entered into
22 prior to the breaking out of war, that is, prior to the
23 attack by Japan on Pearl Harbor?
24
25

1 A Before that no telegrams whatsoever were re-
2 ceived in connection with such a matter as this.

3 Q I did not ask you that. I asked you what
4 preliminary talks.

5 A There were no preliminary talks.

6 Q From whom did you receive a telegram to start
7 negotiations for this agreement?

8 A The telegrams were addressed to me, NOMURA,
9 and Lieutenant-General BANZAI, my Military Attache, from
10 the Minister of the Navy, the Minister of War, the Chief
11 of the Army General Staff and Chief of the Navy General
12 Staff. The instruction was signed jointly by the four
13 Naval and Army heads.

14 Q What was the date that was received?

15 A I don't remember, but it was one or two days
16 after the opening of hostilities.

17 Q Was Ambassador OSHIMA consulted in regard to
18 this matter?

19 A Other than the fact that Ambassador OSHIMA made
20 contacts for the opening of the negotiations, he did
21 nothing, as the negotiations were to be conducted by
22 me, as Naval Attache, and Lieutenant-General BANZAI,
23 with the German Military and Naval authorities, as per
24 instructions in the telegram.
25

 Q I believe you stated a few moments ago that

1 Ambassador OSHIMA kept the Navy and Military informed
2 about matters relating to Navy and Military matters,
3 and that you saw copies of the telegrams or other
4 messages relating to such matters at the time they
5 were sent. Is that true?

6 A Yes, I have seen them.

7 Q Then did you see the telegram from Ambassador
8 OSHIMA, in which he threatened to resign in the event
9 his views regarding the proposed military pact in 1939
10 were not carried out?

11 THE PRESIDENT: We will recess until 1:30.

12 (Whereupon, at 1200, a recess was taken.)
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naval questions?

1 A Yes, I expressed thanks for the offer of these
2 two submarines.

3 Q Was Ambassador OSHIMA present during your
4 conference with Ribbentrop?

5 A In my recollection, Ambassador OSHIMA was
6 not present on that occasion.

7 MR. TAVENNER: Will you repeat that answer?

8 THE PRESIDENT: He does not recollect OSHIMA
9 being present.

10 MR. TAVENNER: That is all, if the Tribunal
11 please.

12 THE PRESIDENT: Counsel SHIMANOUCI.

13 MR. SHIMANOUCI: I am SHIMANOUCI.

14 REDIRECT EXAMINATION

15 BY MR. SHIMANOUCI:

16 Q During the cross-examination by Mr. Prosecutor,
17 referring to the question of the military alliance be-
18 tween Japan and Germany after the outbreak of the
19 Japanese-American war, Mr. Witness, you stated that
20 you asked Ambassador OSHIMA to contact the German
21 authorities concerning this matter -- German military
22 authorities. Why did you request OSHIMA to contact the
23 German authorities when you, NOMURA, and BANZAI had
24 your instructions from the army and navy?
25

naval questions?

1 A Yes, I expressed thanks for the offer of these
2 two submarines.

3 Q Was Ambassador OSHIMA present during your
4 conference with Ribbentrop?

5 A In my recollection, Ambassador OSHIMA was
6 not present on that occasion.

7 MR. TAVENNER: Will you repeat that answer?

8 THE PRESIDENT: He does not recollect OSHIMA
9 being present.

10 MR. TAVENNER: That is all, if the Tribunal
11 please.

12 THE PRESIDENT: Counsel SHIMANOUCI.

13 MR. SHIMANOUCI: I am SHIMANOUCI.

14 REDIRECT EXAMINATION

15 BY MR. SHIMANOUCI:

16 Q During the cross-examination by Mr. Prosecutor,
17 referring to the question of the military alliance be-
18 tween Japan and Germany after the outbreak of the
19 Japanese-American war, Mr. Witness, you stated that
20 you asked Ambassador OSHIMA to contact the German
21 authorities concerning this matter -- German military
22 authorities. Why did you request OSHIMA to contact the
23 German authorities when you, NOMURA, and BANZAI had
24 your instructions from the army and navy?
25

1 THE PRESIDENT: Then, defense counsel could not
2 supply him with the materials that we would take any
3 notice of. They are not a source of naval information.

4 THE INTERPRETER: The witness replied: "I am
5 prepared to answer."

6 THE PRESIDENT: Mr. Brannon, you might clear
7 it up.

8 MR. BRANNON: Yes. The witness used exhibit
9 3,001 and 3,002 as a basis of his American figures given
10 to him by me and which has been read in part by me
11 today.

12 THE PRESIDENT: And that came from Washington?

13 MR. BRANNON: That came from Washington. Then,
14 as a basis for the Japanese figures, as I said before,
15 he used prosecution exhibits.

16 THE PRESIDENT: Yes.

17 Q Will you go ahead with your answer?

18 A Then, may I quote from the official document
19 concerning the United States Navy, which I borrowed
20 from the defense?

21 Q Is that exhibit 3,001?

22 A Will you give me a clear direction? I seem
23 to confuse the name of the document and the exhibit
24 number.

25 THE PRESIDENT: Your attack should be direc-

1 THE PRESIDENT: Then, defense counsel could not
2 supply him with the materials that we would take any
3 notice of. They are not a source of naval information.

4 THE INTERPRETER: The witness replied: "I am
5 prepared to answer."

6 THE PRESIDENT: Mr. Brannon, you might clear
7 it up.

8 MR. BRANNON: Yes. The witness used exhibit
9 3,001 and 3,002 as a basis of his American figures given
10 to him by me and which has been read in part by me
11 today.

12 THE PRESIDENT: And that came from Washington?

13 MR. BRANNON: That came from Washington. Then,
14 as a basis for the Japanese figures, as I said before,
15 he used prosecution exhibits.

16 THE PRESIDENT: Yes.

17 Q Will you go ahead with your answer?

18 A Then, may I quote from the official document
19 concerning the United States Navy, which I borrowed
20 from the defense?

21 Q Is that exhibit 3,001?

22 A Will you give me a clear direction? I seem
23 to confuse the name of the document and the exhibit
24 number.
25

THE PRESIDENT: Your attack should be direc-

1 S H I G E R U S A W A D A, called as a witness in
2 behalf of the defense, being first duly sworn, tes-
3 tified through Japanese interpreters as follows:

4 MR. BLEWETT: May the witness be shown the
5 affidavit, please, defense document No. 1523?

6 (Whereupon, a document was shown to
7 the witness.)

8 DIRECT EXAMINATION

9 BY MR. BLEWETT:

10 Q Is that your affidavit?

11 A Yes, it is. But there is one correction I
12 would like to make in the text.

13 Q You may do so.

14 A On page 1 in the English text, the 4th line of
15 paragraph 2, the wording is, "I went, with the permiss-
16 ion of the Chief and the approval of the War Minister,
17 to Hongkong." The words "to Hongkong" should be correct-
18 ed to "at Hongkong." This should be: "I was at Hongkong,"
19 instead of "I went to Hongkong."

20 MR. BLEWETT: I offer in evidence defense doc-
21 ument No. 1523.

22 THE PRESIDENT: Admitted on the usual terms.

23 THE CLERK OF THE COURT: Defense document
24 No. 1523 will receive defense exhibit No. 3013.

25 (Whereupon, the document above referred
to was marked defense exhibit No. 3013 and re-

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

1 "With a view to obtaining assistance from var-
2 ious quarters, a councillor system was adopted by this
3 Institute in May or June, 1941; but these councillors
4 were entirely nominal personnel registered only as
5 members.

6 "We received no direction or suggestion from
7 the accused KIMURA, SUZUKI, or HOSHINO in connection
8 with business of this Institute."

9 Any questions?

10 THE PRESIDENT: Brigadier Quilliam.

11 CROSS EXAMINATION

12 BY BRIGADIER QUILLIAM:

13 Q You were the first director, were you not,
14 of the Institute?

15 A Yes.

16 Q But for a period before your appointment the
17 accused HOSHINO acted as director, did he not?

18 A Yes.

19 Q What appointment did you hold when you were
20 appointed director?

21 A Do you mean before my appointment?

22 Q Before your appointment.

23 A I was Chief of Staff of the Kwantung Army,
24 and for a short while after that I was attached to Gen-
25

1 Y O S H I O Y A M A M O T O, recalled as a wit-
2 ness on behalf of the defense, being first
3 duly sworn, testified through Japanese
4 interpreters as follows:

5 DIRECT EXAMINATION

6 BY MR. BLEWETT:

7 Q What is your name and address, please?

8 A My name is YAMAMOTO, Yoshio. My address,
9 443, 2-chome, Koenji, Suginami-ku, Tokyo.

10 Q May the witness be shown defense document
11 No. 1666. Is that your affidavit, and have you
12 signed it?

13 A It is my affidavit. My signature is on it.

14 Q Are the contents therein true and correct?

15 A They are.

16 MR. BLEWETT: I offer in evidence defense
17 document No. 1666.

18 THE PRESIDENT: Mr. Tavenner.

19 MR. TAVENNER: If the Tribunal please, your
20 attention is directed to the middle paragraph on
21 page 3 relating to the number of persons killed on
22 the Petrel. Objection is made to that part of the
23 paragraph beginning with the words, "If it is true..."
24 on the ground that it is an effort to forswear the
25 issues in the case.

1 Y O S H I O Y A M A M O T O, recalled as a wit-
2 ness on behalf of the defense, being first
3 duly sworn, testified through Japanese
4 interpreters as follows:

5 DIRECT EXAMINATION

6 BY MR. BLEWETT:

7 Q What is your name and address, please?

8 A My name is YAMAMOTO, Yoshio. My address,
9 443, 2-chome, Koenji, Suginami-ku, Tokyo.

10 Q May the witness be shown defense document
11 No. 1666. Is that your affidavit, and have you
12 signed it?

13 A It is my affidavit. My signature is on it.

14 Q Are the contents therein true and correct?

15 A They are.

16 MR. BLEWETT: I offer in evidence defense
17 document No. 1666.

18 THE PRESIDENT: Mr. Tavenner.

19 MR. TAVENNER: If the Tribunal please, your
20 attention is directed to the middle paragraph on
21 page 3 relating to the number of persons killed on
22 the Petrel. Objection is made to that part of the
23 paragraph beginning with the words, "If it is true..."
24 on the ground that it is an effort to forswear the
25 issues in the case.

DIRECT EXAMINATION (Continued)

BY MR. T. OKAMOTO:

Q The part of the affidavit that was read just now, does that refer to the documents which were in the custody of the War Ministry?

A Yes, they are.

Q Then do you know in what manner the documents which were in the custody of the General Staff were disposed of?

A Yes, I do.

Q Will you explain this briefly?

A With regard to the documents which were in the custody of the General Staff, I have referred to this in the very last part of my affidavit. Furthermore, the War Ministry and the General Staff occupied the same building, and at the time the documents were destroyed I was in the garden and I saw this actually being done by the General Staff.

Q Then is it correct to conclude that all documents which were in the possession of the General Staff were destroyed by -- were burned?

A Yes.

DIRECT EXAMINATION (Continued)

BY MR. T. OKAMOTO:

Q The part of the affidavit that was read just now, does that refer to the documents which were in the custody of the War Ministry?

A Yes, they are.

Q Then do you know in what manner the documents which were in the custody of the General Staff were disposed of?

A Yes, I do.

Q Will you explain this briefly?

A With regard to the documents which were in the custody of the General Staff, I have referred to this in the very last part of my affidavit. Furthermore, the War Ministry and the General Staff occupied the same building, and at the time the documents were destroyed I was in the garden and I saw this actually being done by the General Staff.

Q Then is it correct to conclude that all documents which were in the possession of the General Staff were destroyed by -- were burned?

A Yes.

MIYAMA

DIRECT
CROSS

27,047- $\frac{1}{2}$

THE PRESIDENT: Mr. Tavenner.

CROSS-EXAMINATION

BY MR. TAVENNER:

Q How many copies of the Great Diary were made?

MIYAMA

DIRECT
CROSS

27,047- $\frac{1}{2}$

THE PRESIDENT: Mr. Tavenner.

CROSS-EXAMINATION

BY MR. TAVENNER:

Q How many copies of the Great Diary were made?

MIYAMA

DIRECT
CROSS

27,047- $\frac{1}{2}$

THE PRESIDENT: Mr. Tavenner.

CROSS-EXAMINATION

BY MR. TAVENNER:

Q How many copies of the Great Diary were made?

SAWADA

DIRECT

ceived in evidence.)

1 MR. BLEWETT: I shall read exhibit No. 3013,
2 omitting the formal parts:

3 "1. From October 1939 to November 1940 I
4 served as Vice-Chief of the General Staff under
5 Imperial Prince KAN-IN, then the Chief of the
6 General Staff.

7 "2. Early settlement of the China Incident
8 was the policy Japan adhered to consistently. After
9 the operations in China began to show a tendency for
10 protraction, I went, with the permission of the Chief
11 and the approval of the War Minister, to Hong Kong"--

12 THE PRESIDENT: "I was at Hong Kong" is what
13 I think he said. However, go ahead.

14 MR. BLEWETT: Oh, yes, your Honor. I made
15 the correction but I put it in the wrong place.

16 (continuing:) ---"where I held a secret liaison
17 conference for peace among the military representatives
18 of Japan and China. This conference, however, ended
19 in vain, and in consequence it became urgently nece-
20 ssary for us to cut off Chungking from North French Indo-
21 China and the Burma Road, both of which were the most
22 important supply routes for Chungking. For this purpose
23 the Japanese Government opened negotiations with the
24 Vichy Regime and the British Government. As a result
25

1 they would like to have this document available.

2 THE PRESIDENT: Mr. Blewett.

3 MR. BLEWETT: Defense counsel, sir, have
4 asked me to present this for identification through
5 this witness, if we may.

6 THE PRESIDENT: Mr. Tavenner.

7 MR. TAVENNER: There is no objection, if the
8 Tribunal please.

9 MR. BLEWETT: I ask that the witness be shown
10 the Great Secret Diary for 1931, Volume 1.

11 (Whereupon, a document was handed to the
12 witness.)

13 DIRECT EXAMINATION .

14 BY MR. BLEWETT: (Continued)

15 Q Is that the original of the Great Diary?

16 A Yes.

17 Q What volume and for what period of time does
18 it cover?

19 A It is Volume 1 of the Diary of 1931. The
20 period covered is very difficult -- would take some
21 time to say offhand here, because the documents are not
22 filed chronologically.

23 Q What is the volume number?

24 A No. 1.

MIYAMA

DIRECT

27,059- $\frac{1}{2}$

1 THE PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: If the Tribunal please, it
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1 M I N O R U I I M U R A, called as a witness in be-
2 half of the defense, being first duly sworn, tes-
3 tified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. BLEWETT:

6 Q Will you please state your name and your address?

7 A My name is IIMURA, Jo, (Minoru); address 2-501
8 Soshigaya, Setagaya-Ku, Tokyo.

9 MR. BLEWETT: I ask that the witness be shown
10 defense document 164.

11 (Whereupon, a document was shown to
12 the witness.)

13 Q I ask you if that is your affidavit and if you
14 signed it at the end?

15 A As you say.

16 Q Are the contents therein true and correct?

17 A They are true and correct.

18 MR. BLEWETT: I offer in evidence, if the Tri-
19 bunal please, defense document 164.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 164 will
22 receive defense exhibit number 3030.

23 (Whereupon, the document above referred
24 to was marked defense exhibit No. 3030 and receiv-
25 ed in evidence.)

1 M I N O R U I I M U R A, called as a witness in be-
2 half of the defense, being first duly sworn, tes-
3 tified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. BLEWETT:

6 Q Will you please state your name and your address?

7 A My name is IIMURA, Jo, (Minoru); address 2-501
8 Soshigaya, Setagaya-Ku, Tokyo.

9 MR. BLEWETT: I ask that the witness be shown
10 defense document 164.

11 (Whereupon, a document was shown to
12 the witness.)

13 Q I ask you if that is your affidavit and if you
14 signed it at the end?

15 A As you say.

16 Q Are the contents therein true and correct?

17 A They are true and correct.

18 MR. BLEWETT: I offer in evidence, if the Tri-
19 bunal please, defense document 164.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 164 will
22 receive defense exhibit number 3030.

23 (Whereupon, the document above referred
24 to was marked defense exhibit No. 3030 and receiv-
25 ed in evidence.)

1 MR. FREEMAN: I shall skip paragraph 8 and
2 begin with paragraph 9:

3 "The feelings of the nation toward POW's can-
4 not be declared to have been cordial. As air raids
5 became more intensified and as the number of those
6 who had lost their kin in the war became more numerous,
7 it was considered that these feelings were more ag-
8 gravated.

9 "In consequence, the proper treatment of the
10 POW's by the Army was censured everywhere that the
11 Army was according too good treatment to the POW's.
12 And again POW staffs were looked upon by the nation
13 at large with apathy, and were criticized by them
14 as if they were unpatriotic to the State. There were
15 instanc s that such staffs were disturbed by some of
16 such unthinking people in the execution of their
17 duties in connection with the POW administration.

18 "The attached shows some examples of such
19 censures and disturbances."
20

21 I offer in evidence defense document 2113.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Defense document 2113
24 will receive exhibit No. 3116.

25 (Whereupon, the document above
referred to was marked defense exhibit

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

1 THE PRESIDENT: Is the witness required any further

2 COLONEL MORNANE: If the Court please, I merely
3 wish to refer the Tribunal to certain parts of the
4 prosecution's evidence with regard to the treatment of
5 prisoners of war in Japan, exhibits 1916 to 1955, at
6 pages 14,197 to 14,261 inclusive; and the evidence of
7 Capt. Chisholm at pages 14,270 to 14,280; and to ex-
8 hibits 2028 to 2033, at pages 14,901 to 14,907.

9 MR. FREEMAN: May the witness be excused?

10 THE PRESIDENT: He is excused on the usual terms.

11 (Whereupon, the witness was excused.)

12 MR. FREEMAN: Defense documents 2077 and 2172
13 have been withdrawn.

14 I next offer in evidence document 2109-A,
15 which is an excerpt from the "TOKYO Prisoners of War
16 Internment Camp Monthly Report for March 1943."

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Defense document 2109-A
19 will receive exhibit number 3124.

20 (Whereupon, the document above referred to was
21 marked defense exhibit 3124 and received in evidence.)

22 MR. FREEMAN: I shall read exhibit 3124:

23 "1. Ordinary diet.

24 "The staple food for the captives of non-com-
25 missioned officers and under were rationed 570 grammes

1 demand of the general public, in order to have pris-
2 oners find comfort and hope in this direction so that
3 they may display the maximum ability in their labor."

4 I next offer in evidence defense document
5 2109-B, which is an excerpt from the "FUKUOKA War
6 Prisoners Camp Monthly Report" for June 1944, having
7 to do with the daily diet of war prisoners.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Defense document 2109-
10 B will receive exhibit number 3125.

11 (Whereupon, the document above re-
12 ferred to was marked Defense exhibit 3125 and
13 received in evidence.)

14 MR. FREEMAN: I read exhibit 3125:

15 "Individual war prisoners under labor, 705
16 gs. of rice and wheat per head a day;

17 "Individual war prisoners below the non-
18 commissioned officer free from labour, 570 gs.;

19 "Individual commissioned officer and similar
20 ranking officer, 390 gs.

21 "As a general rule, delivery of rice and
22 wheat to all war prisoners is based on at the rate
23 of 705 gs. per head, but is to be adjusted by act-
24 ually allowing the foregoing rations to each one in
25 accordance with the nature of labour and physical

1 (Whereupon, the document above
2 referred to was marked defense exhibit
3 No. 3147 and received in evidence.)

4 MR. BLEWETT: Before reading the affidavit
5 of this witness, I refer the Tribunal to page 16,800
6 and 16,801 of the transcript where reference is made
7 to the reception of decorations by the accused and
8 also exhibits 103 to 129 which are the personal
9 records.

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Freeman.

4 MR. FREEMAN: If the Tribunal please, I
5 again tender in evidence defense document 2244,
6 which has now been distributed. This document is
7 a record of the court-martial of three POWs. I
8 desire to read no part of it.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Defense document 2244
11 will receive exhibit No. 3142.

12 (Whereupon, the document above
13 referred to was marked defense exhibit
14 No. 3142 and received in evidence.)

15 MR. FREEMAN: If the Tribunal please, this
16 concludes the subdivision relative to POWs and civilian
17 internees.

18 Mr. Cunningham will now offer certain docu-
19 ments that he has.

20 THE PRESIDENT: Mr. Cunningham.

21 MR. CUNNINGHAM: At the end of the presentation
22 of evidence in the Tripartite Pact material reservation
23 was made for a few witnesses and documents which were
24 not ready for processing at that time. At this time
25 I would like to present the witness SAITO, whose

SAWADA

CROSS

1 THE PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: Objection is made, if the
3 Tribunal please. This witness is not qualified to
4 answer a question of that type.

5 THE PRESIDENT: It is a purely hypothetical
6 question. Objection upheld.

7 MR. LAZARUS: Nevertheless, Mr. President,
8 this witness had once been Vice Chief of Staff. General
9 HATA was Commander-in-Chief of the China forces. Sure-
10 ly he would know what the repercussions would be should
11 a high-ranking officer disobey his superiors in a
12 matter like this.

13 THE PRESIDENT: The question is still one for
14 us: Was the order manifestly unlawful according to
15 international law?

16 MR. LAZARUS: Nevertheless --

17 THE PRESIDENT: And the consequences in the
18 Japanese army of disobeying an invalid order are beside
19 the point. It wouldn't matter. But it may certainly
20 be taken into account in dealing with sentence. The
21 Japanese army have no authority to validate an order
22 invalid according to international law.

23 MR. LAZARUS: I am not worrying about that
24 point, Mr. President.

25 THE PRESIDENT: That is the consequence of

NOTE:

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pages and should be substituted for the
corresponding pages in the record.

1 THE PRESIDENT: Do you think you are going
2 to meet the sweeping charges made against you by
3 reading the individual experiences of a few people?
4 We know that there are tens of thousands of kind-
5 hearted Japanese. We would assume in the army itself,
6 in the navy, in the air force, many Japanese behaved
7 very well but that is not an answer to these charges.
8 Meet the charges made against you and do not try to
9 prove that in other cases where no charges were made
10 no faults could be found. That is what you are doing.

11 MR. FREEMAN: I respectfully submit there are
12 men in the dock from the Foreign Office, from the army,
13 and from the navy. They are charged with conspiracy
14 and among other things, crimes against humanity.
15 Apparently this instruction came from the Foreign
16 Office which certainly shows there was no conspiracy
17 to humiliate people and I know of no way to disprove
18 these charges than from affidavits from the people who
19 were supposed to have been subjected to these indig-
20 nities.

21 THE PRESIDENT: I recollect no charge in re-
22 spect of Mrs. Martin, no evidence about Mrs. Martin,
23 offered by the prosecution.

24 It is only fair to let you know just what we
25 think of this type of thing so you will be able to

KOMODA

1 Additional evidence of atrocities in the Kwantung
2 Province appear in exhibit 350, transcript of pro-
3 ceedings, page 4648.

4 The prosecution does not desire to cross-
5 examine this witness.

6 MR. FREEMAN: I next call the witness OKADA--

7 THE PRESIDENT: This witness is released on
8 the usual terms.

9 MR. FREEMAN: I am sorry.

10 (Whereupon, the witness was excused.)

11 MR. FREEMAN: I next call the witness OKADA,
12 Yoshimasa, whose affidavit is defense document 1781.

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OKADA

DIRECT

1 Y O S H I M A S A O K A D A, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

DIRECT EXAMINATION

BY MR. FREEMAN:

5 Q Mr. OKADA, will you please give us your full
6 name and address?

7 A My name is OKADA, Yoshimasa, and my present
8 address: 190 Mabashi, 2-chome, Suginami-ku, Tokyo.

9 MR. FREEMAN: May the witness be shown defense
10 document 1781.

11 Q Is that your affidavit, and have you signed it?
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1 letters at Singapore.

2 "A I received the letters of thanks from pri-
3 soners. But towards the end of 1945 when withdraw-
4 ing from the camps our trucks encountered enemy
5 and were burned down with all the official and pri-
6 vate things. The last letters I got on the occasion
7 of their liberation were snatched off by an unknown
8 soldier along with a black leather purse containing
9 them, when Australian soldiers plundered us at
10 Singapore."

11 I next tender in evidence a later interro-
12 gation of Captain TAMUZI and offer in evidence this
13 excerpt, defense document 2207.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Defense document No.
16 2207 will receive exhibit No. 3088.

17 (Whereupon, the document above
18 referred to was marked defense exhibit
19 No. 3088 and received in evidence.)

20 MR. FREEMAN: I will read defense exhibit
21 No. 3088, excerpts from interrogation of TAZUMI 27
22 May 1947:

23 "Q Had you any facilities for recreation
24 and comfort for the prisoners in the Rangoon Camps?

25 "A Yes, athletic meetings for the white people

1 only were held three times and concerts were held
2 often and some 60 books were given them in two in-
3 stallments.

4 "Q What was the canteen like in the said camps?

5 "A Eats, drinks and daily necessities were
6 bought for all of the prisoners from the canteen
7 fund which was their collective fund. Order and
8 distribution of articles was in charge of officers
9 among the prisoners. The paymaster of the camp
10 acted as the agency for finding ordered articles and
11 kept connection with merchants. I forgot the volume
12 of monthly sales.

13 "Q Did you allow them to rest on such days as
14 Sunday and other holidays in accordance with the re-
15 gulations?

16 "A Yes, we did, but since January 1945 the out-
17 door labor required so many men that all could not
18 rest at once on Sundays and they took rest every day
19 in turns.

20 "Q Was there unlawful acts inflicted by Japa-
21 nese soldiers on the prisoners since the middle of
22 September 1944?

23 "A I don't remember any of the unlawful acts
24 toward the prisoners by Japanese soldiers. But the
25 prisoners were punished.

1 "Examples:

2 "1. When some British soldiers refused to go
3 out for labor. (It was reported by the British Chief
4 of the building).

5 "2. When an Indian officer would not act upon
6 the administrative regulations for the prisoners.

7 "Q Was there any case in which the prisoners
8 in the said camps were mentally and physically well
9 treated?

10 "A Yes, there were. The examples are as follows:

11 "1. Upon the revision of the prisoners' pay-
12 roll maximum wage rate was allowed them.

13 "2. They had near the camps their own vegeta-
14 ble farms where the products were not only enough for
15 them but were often bartered for rare foods in the
16 military market.

17 "3. They received a lot of cows and pigs which
18 were slaughtered in the camps thereby increasing the
19 supply of raw fresh meat.

20 "4. During Christmas and New Year a lot of
21 luxuries were given them.

22 "Q Were you a member of the staff of the 73rd
23 Commissary Sector or an M.P?

24 "A No. I was not in the staff of the 73rd
25 Commissary Sector, but was in the staff of the Malay

1 Prisoners Camp. My branch of arms was artillery."

2 THE PRESIDENT: I hear that this person,
3 TAZUMI, had been tried down there as to offenses
4 relating to prisoners of war. Is he still available?

5 MR. FREEMAN: He is in Rangoon.

6 THE PRESIDENT: Yes.
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1 I now read into evidence the last page of
2 exhibit 3093, beginning with paragraph 4:

3 "4. As for the alleged illegal actions of
4 which a charge is laid before the Court, the Army
5 Headquarters never ordered such illegalities to be
6 perpetrated, nor did it receive any reports on the
7 same; in fact, we knew nothing whatever about the
8 cases. Accordingly, General KIMURA, Commander of the
9 Area Army forces, had of course no knowledge whatso-
10 ever of those wrongs. - -"

11 COLONEL MORNANE: If it please the Tribunal,
12 the prosecution objects to this. The witness cannot
13 say whether General KIMURA had any knowledge of these
14 things or not, in his position.

15 THE PRESIDENT: No, he cannot.

16 MR. FREEMAN: Is the objection upheld?

17 THE PRESIDENT: Is that all you object to in
18 this affidavit?

19 COLONEL MORNANE: If it please the Tribunal,
20 I object to the whole of the part that has been read
21 up to date.

22 THE PRESIDENT: Well, it looks as though we
23 will have to edit it on the Bench. It is full of
24 repetitive material at all events.

25 COLONEL MORNANE: It is only paragraph 4 my

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1 THE PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: If the Tribunal please, I am
3 not objecting to the offering of defense document
4 1940, but in my objection a moment ago to the last
5 question and answer on page 10 of the present wit-
6 ness' affidavit, I called attention to the fact that
7 the material cited there does not appear in any draft
8 of rule 15 or instruction 15 which appears on the
9 order list. I understood that counsel assured us that
10 this quotation was contained in a document which he
11 would presently present.

12 THE PRESIDENT: He gave us his word that it
13 was in 1940, and it is not; but he may have had some
14 other document in mind.

15 MR. TAVENNER: On the basis of this document
16 I desire to renew my objection to the matter appear-
17 ing on page 10 of the witness' affidavit, and I will
18 withdraw it if he produces a document in compliance
19 with his statement.

20 MR. ROBERTS: When we read defense document
21 1940 it will disclose a reference to an annex concern-
22 ing the policy of the navy. The document
23 that I referred to as 2294 covers the annex and the
24 information contained in the affidavit.
25

I would like to proceed to have

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corresponding pages in the record.

1 that the official document is the English translation.

2 THE PRESIDENT: What do you mean? When you
3 obtained this document from Japanese sources it was in
4 English?

5 MR. TAVENNER: The document was translated
6 by SCAP and is an official record of SCAP.

7 THE PRESIDENT: Not official Japanese, but
8 official as far as the Supreme Commander is concerned.

9 MR. FURNESS: If your Honor please, it is
10 quite obvious that both Baron HARADA and Prince SAIONJI
11 spoke and thought in Japanese and regardless of what
12 SCAP thought, it seems to me that the basic official
13 document is in Japanese.

14 THE PRESIDENT: You will have a photostat
15 copy of the original which is the official Japanese
16 copy perhaps.

17 Mr. Freeman.

18 MR. FREEMAN: If the Tribunal please, I next
19 call the witness KUDO, whose affidavit is defense
20 document 2233.

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NOTE:

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corresponding pages in the record.

1 received at that time on these questions was
2 promptly transmitted to the countries concerned.
3 The Foreign Ministry, having no means of investiga-
4 tion, had to rely upon the information supplied by
5 them and could not do anything further than draw-
6 ing the attention of the authorities concerned to
7 the necessity of according fair and equitable treat-
8 ment to the prisoners and internees of enemy coun-
9 tries, especially taking into consideration the
10 residence of Japanese in enemy countries.

11 "Such being the circumstances, nothing was
12 known to us with respect to the ill-treatment of
13 prisoners of war or internees in the occupied areas
14 unless we were informed by the military or naval
15 authorities concerned or by the adversary belligerent
16 countries. As to the prisoners and internees on Wake
17 Island, we received some inquiries from the Swiss
18 Minister in Tokyo in the beginning of 1942, but
19 they were inquiries about conditions and not protests
20 or complaints, and we did not fail in transmitting
21 them to the authorities concerned, and upon receipt
22 of reply from them, we immediately sent the informa-
23 tion obtained at that time to the Swiss Minister, as
24 shown in exhibit 2034, and a further communication was
25 made to him on 10 August (exhibit 2040). It was not

KUDO

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THE PRESIDENT: Colonel Mornane.

CROSS-EXAMINATION

BY COLONEL MORNANE:

Q Witness, I take it you ceased to have any connection with these matters on the 31st of October, 1942?

A Yes, that is so.

Q Well, now, with regard to complaints received prior to that time, to what ministries, or other offices did you send them?

A Such matters were referred to the Second Section of the Bureau of Treaties, and from that section it was transmitted to the office handling matters relating to Japanese nationals in enemy countries presided over by Minister SUZUKI.

Q You would not send them direct to the War Ministry from the Foreign Office?

A No.

Q Have you any knowledge of how Minister SUZUKI dealt with them?

A He handled quite a good deal of business, but I do not know the extent.

Q But, have you any knowledge as to what particular ministries he would send the complaint?

A I do not know, because when I was transferred

1 in which both articles of the Hague and the Geneva
2 Convention appear. However, I attempted yesterday in
3 reading excerpts from both to show that difference.
4 I will be glad later to bring it back in and show the
5 difference.

6 THE PRESIDENT: It is the purpose of tender-
7 ing this document that I am inquiring about, and I
8 state that you have to note the differences between
9 the two conventions and see whether they justify this
10 document.

11 MR. FREEMAN: This document was offered to
12 show the Navy's reason why they objected to the rati-
13 fication of the Geneva Convention. I think it also
14 shows the lack of conspiracy among the accused.

15 I next offer in evidence defense document
16 2126, which is the Army's reply relative to ratifying
17 the same Convention.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Defense document 2126
20 will receive exhibit No. 3044.

21 (Whereupon, the document above referred
22 to was marked defense exhibit 3044 and received
23 in evidence.)
24

25 MR. FREEMAN: I shall not read exhibit 3044
but comment to the extent that the army was agreeable

1 by General TERAUCHI's army.

2 MR. FREEMAN: If the Tribunal pleases, that
3 still is outside the scope of this affidavit. The
4 affidavit concerns certain instructions given by
5 Marshal TERAUCHI on November 20, 1941. What happened
6 thereafter has nothing to do with this affidavit.

7 THE PRESIDENT: Two opposite views are open.
8 This witness actually says no more than TERAUCHI
9 made that speech, but there is another view and
10 perhaps the sounder one, that the sincerity of that
11 speech can be the subject of cross-examination.
12 I do not know what views my colleagues may have; I
13 have only one.

14 By a majority the objection is upheld, and
15 the question disallowed.

16 COLONEL MORNANE: If it please the Court.

17 MR. FREEMAN: May the witness be excused?

18 (Whereupon, the witness was excused.)

19 I next offer in evidence defense document
20 1589 which is an amendment to Article 2 of the
21 regulations concerning the treatment of prisoners of
22 war.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 1589
25 will receive exhibit No. 3046.

1 the accommodation, handling, allowances, transfer,
2 labor and punishment of prisoners of war and internees
3 at the front.

4 "(b) Matters concerning correspondence of
5 the prisoners of war and internees at the front.

6 "(c) Matters concerning the relief of
7 prisoners of war and internees at the front.

8 "(d) Matters of minor importance concern-
9 ing granting to foreigners entree of prisoners of
10 war camps and the military detention houses."

11 COLONEL MORNANE: If it please the Tribunal,
12 with regard to that the prosecution would like to be
13 informed as to who is referred to by the title of
14 Adjutant. Is it the Adjutant of the Prisoner of
15 War Control Bureau?

16 THE PRESIDENT: The certificate throws no
17 light on it, but it is suggested, probably quite right-
18 ly, that it means the War Ministry Adjutant.

19 It is nearly twelve. Clear it up during
20 the luncheon adjournment.

21 We will adjourn until half-past one.

22 (Whereupon, at 1200, a recess was
23 taken.)
24
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1 'subject matters that I would like to open up very
2 shortly which are not covered by other evidence.

3 THE PRESIDENT: I realize his importance.
4 He was in charge of a camp, or camps, in Tokyo where
5 the accused, or most of them, I suppose, resided.
6 Those camps may or may not have been under the eye
7 of some of the accused. I realize the importance of
8 it, but I do not see the value of a cross-examination
9 along these lines where you are relying on your own
10 evidence independently of his answers.

11 I am not suggesting for one minute that any
12 of your questions was really inadmissible, but you
13 were right on the border line all the time.

14 COLONEL MORNANE: There is one matter, if it
15 please the Tribunal, I would like to bring out, which
16 has not already been proved. That is, that the accuse
17 TOJO is alleged to have visited one of the camps under
18 his control during his regime there.

19 THE PRESIDENT: I have not prevented you
20 from asking any questions. I am suggesting a certain
21 course to you. Use your own judgment.

22 MR. FREEMAN: If the Tribunal please, that
23 is the last paragraph in the affidavit. He states
24 that TOJO visited --
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THE PRESIDENT: It didn't escape our attentio

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1 MARSHAL OF THE COURT: The International Mil-
2 itary Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Freeman.

4 MR. FREEMAN: If there is no other re-cross-
5 examination, may the witness be excused?

6 THE PRESIDENT: He is excused on the usual
7 terms.

8 (Whereupon, the witness was excused.)

9 MR. FREEMAN: I next call the witness YAMAZAKI,
10 Shigeru, whose affidavit is defense document 1696.

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1 S H I G E R U Y A M A Z A K I, recalled as a wit-
2 ness on behalf of the defense, resumed the stand
3 and testified through Japanese interpreters as
4 follows:

5 THE PRESIDENT: You are still on your former oath

6 DIRECT EXAMINATION

7 BY MR. FREEMAN:

8 Q Will you give us your full name and address?

9 A My name is YAMAZAKI, Shigeru; my address,
10 Uwabori, Kamikawa-Mura, Chiisagata-Gori, Nagano Prefect-
11 ure.

12 MR. FREEMAN: Will the Translation Section
13 repeat the President of the Court's statement to the
14 witness?

15 (Whereupon, the Japanese interpreter
16 addressed the witness in Japanese.)

17 MR. FREEMAN: May the witness be shown defense
18 document 1696?

19 (Whereupon, a document was handed to
20 the witness.)

21 BY MR. FREEMAN:

22 Q Is that your affidavit and have you signed it?

23 A Yes.

24 Q Are the contents true and correct?

25 A Yes, correct.

1 S H I G E R U Y A M A Z A K I, recalled as a wit-
2 ness on behalf of the defense, resumed the stand
3 and testified through Japanese interpreters as
4 follows:

5 THE PRESIDENT: You are still on your former oath.

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13 repeat the President of the Court's statement to the
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16 addressed the witness in Japanese.)

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18 document 1696?

19 (Whereupon, a document was handed to
20 the witness.)

21 BY MR. FREEMAN:

22 Q Is that your affidavit and have you signed it?

23 A Yes.

24 Q Are the contents true and correct?

25 A Yes, correct.

YAMAZAKI

DIRECT

1 BY MR. FREEMAN (Continued)

2 Q Mr. Yamazaki, did you attend the meetings of
3 the commandants of prisoner of war camps on June 25,
4 1942 and July 7, 1942?

5 A Yes.

6 Q Did Lieutenant-General KAMIMURA read some in-
7 structions on those dates?

8 A He read the instructions of the War Minister
9 as proxy.

10 Q Can you briefly give us the substance of those
11 instructions?

12 A Prisoners of war must be handled with justice.
13 Do not pamper them. Do not let them eat the bread of
14 idleness. And finally, in handling the prisoners,
15 efforts should be made to demonstrate to the natives of
16 the area the superiority of the Japanese.

17 MR. FREEMAN: You may cross-examine.
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YAMAZAKI

DIRECT

1 BY MR. FREEMAN (Continued)

2 Q Mr. Yamazaki, did you attend the meetings of
3 the commandants of prisoner of war camps on June 25,
4 1942 and July 7, 1942?

5 A Yes.

6 Q Did Lieutenant-General KAMIMURA read some in-
7 structions on those dates?

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9 as proxy.

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11 instructions?

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16 the area the superiority of the Japanese.

17 MR. FREEMAN: You may cross-examine.
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1 bunal please, on the ground of lack of relevancy and
2 materiality.

3 THE PRESIDENT: Objection upheld.

4 MR. S. OKAMOTO: I should like to state my
5 opinion as a counsel for MUTO.

6 THE PRESIDENT: Do, but do not waste our time.

7 MR. S. OKAMOTO: I shall respect time.

8 This has a very important bearing to prove the
9 fact that at headquarters -- that the headquarters
10 was not expecting the outbreak of atrocities, and that
11 they also did their best to prevent the outbreak of
12 atrocities. That can be absolutely given in the short
13 time of five or six minutes, and it will take only
14 fifteen minutes to put all my questions.

15 THE PRESIDENT: Now, we don't want to be coaxed
16 into allowing you to ask questions that are not really
17 relevant or material. Questions of what was General
18 YAMASHITA's policy are quite vague and not allowable.
19 Try again.

20 Q What was the strategy entertained by General
21 YAMASHITA in the area around Manila at the time immed-
22 iately after the landing of the United States forces on
23 Mindanao Island on the 19th of November --

24 THE MONITOR: 15th of December, 1944.

25 THE PRESIDENT: We don't want to know the

1 as much raw materials as possible from the city, and
2 later to carry on the fighting chiefly in the mountain-
3 ous area -- in the triangular mountainous area?

4 THE PRESIDENT: Mr. Tavenner.

5 MR. TAVENNER: Objection is made on the
6 ground of its being a leading question.

7 MR. S. OKAMOTO: As I am afraid of putting
8 this type of question which would be considered as a
9 leading question, I put my first question, that is,
10 concerning the policy of the General, and your Honor
11 stated my question was too vague.

12 THE PRESIDENT: It is not objectionable only
13 because it is leading; it is objectionable because it
14 is indefinite.

15 Objection upheld.

16 Who is the American counsel appearing in the
17 same interest as you?

18 MR. S. OKAMOTO: Mr. Cole.

19 THE PRESIDENT: Perhaps he can assist.

20 MR. S. OKAMOTO: I will put another ques-
21 tion.

22 Q Did you, Mr. Witness, express some opinion
23 concerning strategy or operations to General YAMASHITA
24 around about the 20th -- the 10th of February, 1945?
25

A Yes, I did

1 as much raw materials as possible from the city, and
2 later to carry on the fighting chiefly in the mountain-
3 ous area -- in the triangular mountainous area?

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24 around about the 20th -- the 10th of February, 1945?
25

A Yes, I did

1 MR. FREEMAN: I next call the witness, ICHIDA,
2 Jiro, whose affidavit is defense document 284.

3 - - -

4 J I R O I C H I D A, called as a witness on behalf
5 of the defense, being first duly sworn, testi-
6 fied through Japanese interpreters as follows:

7 DIRECT EXAMINATION

8 BY MR. FREEMAN:

9 Q Mr. ICHIDA, will you give us your full name
10 and address.

11 A My name is ICHIDA, Jiro; my address, Showa-
12 dori, Nakama-machi, Onga-gun, Fukuoka-ken.

13 MR. FREEMAN: May the witness see defense
14 document 284.

15 (Whereupon, a document was handed
16 to the witness.)

17 Q Is that your affidavit, and have you signed it?

18 A Yes.

19 Q Are the contents therein true and correct?

20 A Yes.

21 MR. FREEMAN: I offer in evidence defense
22 document 284.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 284
25

TE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in ses-
3 sion.

4 THE PRESIDENT: Major Moore.

5 LANGUAGE ARBITER (Major Moore): If the
6 Tribunal please, we present the following language
7 corrections.

8 Exhibit 2234, record page 16,029, line 4, de-
9 lete "to my friends" and substitute ", (comma) follow-
10 ing the advice of my colleagues, (comma)"; delete
11 "various."

12 Line 5, substitute "at various places" for
13 "all over the country."

14 Line 16, delete from "such" to "ridiculed"
15 and substitute "I was made fun of."

16
17 THE PRESIDENT: In chambers counsel for the
18 accused ARAKI applied for subpoenae for certain wit-
19 nesses, twenty-four in all. For the time being, sub-
20 poenae will not be issued. I understand from Mr. Mc-
21 Manus, counsel for the accused, that affidavits have
22 been obtained from those witnesses. Those affi-
23 davits can be tendered in the ordinary way and will be
24 dealt with on their merits. If the witness in any case
25 is required for examination or cross-examination,
then his attendance will be directed, and if necessary,

1 ment. Generally, it states that Archbishop Marella
2 was allowed to visit certain camps in Japan and
3 certain of his priests were allowed to visit these
4 camps for the purpose of providing religious consolation. It goes on to say, or he goes on to say they
5 did not have "either the right or the duty to see to
6 the observation of international conventions or to
7 protest in the event of their contravention."
8

9 He says nothing as to the conditions of the
10 camps that he visited, but he does say there were
11 cases where prisoners praised efforts of overseers
12 to make their lives less hard. No allegation has been
13 made that prisoners of war were denied religious consolation in Japan.
14

15 THE PRESIDENT: He suggests there were. He
16 suggests that the priests more often presided at
17 funerals than assisted at dying.
18

19 LIEUT. COLONEL MORNANE: The letter says --

20 THE PRESIDENT: And he says that is the
21 Japanese mentality. Anyhow, you are making no allegation even if he does.
22

23 LIEUT. COLONEL MORNANE: There is no allegation in the prosecution's case. That is, we haven't
24 proved anything.
25

Now, specifically, we object, on the second

1 Question by Mr. Blakeney: "Now, am I to
2 understand that for motives of your own you did make
3 to Mr. Woodhead substantially the statement I have
4 put to you?"

5 Answer: "Yes. I was asked to say that by
6 ITAGAKI. I had no other way."

7 THE PRESIDENT: This affidavit of Woodhead,
8 if admitted, may show that ITAGAKI was not mentioned
9 at the time to Woodhead, and what he said about
10 ITAGAKI in the box was an afterthought and not men-
11 tioned to Woodhead.

12 MR. TAVENNER: That would seem not to go to
13 the point as the only point involved is whether or
14 not he made the statements that were presented in
15 the course of cross-examination.

16 The second objection is that the witness is
17 not available for cross-examination even if it were
18 permissible to introduce this affidavit. In addition
19 to all of that, the affidavit goes far beyond the
20 two questions that were involved in the cross-examin-
21 ation.

22 MR. BLAKENEY: Before replying to the spec-
23 ific objections, I should like to mention that at
24 the time the defense Russian evidence was being pre-
25 sented, I offered in evidence the book itself from

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2 understand that for motives of your own you did make
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25 the time the defense Russian evidence was being pre-
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Page 1, paragraph 13 of the affidavit, the sentence beginning "As the War Minister" down to "diplomatic matters:" exhibit 1104, page 10,081; exhibit 2219, page 15,841; exhibit 2218, page 15,837; exhibit 2216, page 15,832.

Again, page 17, paragraph beginning "As for the problems" down to "independence:" exhibit 1104, page 10,081.

Same page, paragraph beginning "These explanations" down to "Nations:" same exhibit.

Page 19 -- I am not quite sure in which of the sections on this page that part is. It is either the end of 13 or the beginning of 14 -- paragraph beginning "Standing from the League" down to "witnesses:" exhibit 2222, page 15,845.

Page 20, section 14-A, paragraph beginning "To cope with this" down to "Soviet Union:" exhibit 668, page 7,332; exhibit 670, page 7,331.

Page 20 again, second section, paragraph beginning "I do not admit" down to "expression:" exhibit 746, page 7,720; exhibit 747, page 7,727; exhibit 671-A, page 7,336; I beg your pardon -- page 35, section 24, paragraph beginning "My duty as Education Minister" down to "meeting:" exhibits 2218, page 15,837; 2219, page

NOTE:

The attached pages are corrected pages and should be substituted for the corresponding pages in the record.

1 charged with having undertaken official acts in
2 connection with these negotiations in furtherance
3 of the charge leveled by the prosecution. While
4 admittedly this document is dated prior to the
5 time Mr. HIROTA was in office as Foreign Minister,
6 nevertheless it is only a question of a few months
7 antecedent thereto, and after he assumed office these
8 negotiations were continued. In the light of the
9 fact that there appears to be a charge of continuing
10 conspiracy, in our submission this document is rele-
11 vant and material as showing whether or not the
12 negotiations were forced upon the Soviet Union.

13 THE PRESIDENT: By a majority the objections
14 are overruled and the document admitted on the usual
15 terms.

16 CLERK OF THE COURT: Pamphlet entitled
17 "Collection of the Publications in Connection with
18 the Negotiation for the Purchase of North Manchuria
19 Railway" will receive exhibit No. 3235 for identifica-
20 tion only; the excerpt therefrom, being defense docu-
21 ment 2509, will receive exhibit No. 3235-A.

22 (Whereupon, the pamphlet above
23 referred to was marked defense exhibit
24 No. 3235 for identification only; the
25 excerpt therefrom, being defense document

1 upon Japan's position in refusing the invitation to the
2 Brussels Conference, a point upon which the prosecution
3 relies in support of their case; and I may add I believe
4 later proof by other witnesses will show that the HIROTA
5 Government did rely upon this extract.

6 Now, specifically as to the relevancy of a docu-
7 ment of this nature, it would seem to me that it is not
8 unusual to introduce into evidence hearings before com-
9 mittees regarding legislation pending before, let us say,
10 a legislature, in order that the proper interpretation
11 can be given to the terms of a piece of legislation or,
12 a treaty; and whereas here Japan relied upon this proof
13 in order to refuse the invitation to the conference, it
14 would seem, in our submission, to have very definite
15 probative value and relevancy.

16 It further goes to the point of whether or not
17 there was a violation by Japan in refusing to attend that
18 conference.

19 As to the further point, if your Honors please,
20 as to whether or not this was a matter that should have
21 been presented in the general phase, I wish to state in
22 the individual case of the accused HIROTA, since he was on
23 of the principal dramatis personae, the fact that evidence
24 on his behalf may be intertwined with matters pertaining
25 to the general phases is something which is inherent in

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: The accused TOGO will be absent
4 for the first half of the morning session, and the
5 accused KAYA will be absent for the whole of the
6 morning session, from the courtroom, conferring
7 with their counsel.

8 Mr. Yamaoka.

9 - - -

10 K E N S U K E H O R I N O U C H I, called as a
11 witness on behalf of the defense, resumed the
12 stand and testified through Japanese interpreters
13 as follows:

14 MR. YAMAOKA: May it please the Tribunal,
15 just before the close of the day yesterday the Tribunal
16 made a ruling on hearsay. I find that for my purposes
17 it will not be necessary to press these questions
18 regarding the conversations between this witness and
19 the accused HIROTA, at this time.

20 THE PRESIDENT: It may never be necessary to
21 decide that point. We will wait until it is necessary.

22 MR. YAMAOKA: I should be satisfied, if the
23 Tribunal please, if this witness, however, is permitted
24 to testify to the actual conversations that he attended
25 and also to the conversations that he held with

1 THE PRESIDENT: Mr. Yamaoka.

2 MR. YAMAOKA: If the Tribunal please, as this
3 witness has been cross-examined at great length by my
4 learned friend on some documents about which there is
5 some dispute as to authenticity, I respectfully request
6 that the documents so tendered to this witness and
7 not identified by him and subsequently not admitted
8 into evidence, that is, those which the prosecution
9 has withdrawn, be submitted for identification.

10 MR. COMYNS CARR: In my submission, the defense
11 cannot have it both ways. They cannot both have the
12 document excluded from evidence, because their witness
13 won't identify them, and at the same time have them
14 marked for identification. This point was discussed
15 a long time ago in this Tribunal and the Tribunal ruled
16 the other way.

17 THE PRESIDENT: Although we do not do this in
18 a national court, at least not in my court in Australia,
19 I think we have been doing something of the kind here.
20 I am not sure about it. I am subject to correction.

21 MR. COMYNS CARR: Your Honor, in this precise
22 form I do not think it has arisen before.

23 THE PRESIDENT: They are not received into
24 evidence by being marked for identification. If it is
25 any comfort to the defense I think we would prefer that

1 great respect I submit that the witness has so answered
2 already when he was being questioned on this document.

3 THE PRESIDENT: He has stated certain things,
4 but he has suspended his judgment until he reads that
5 document. He said so.

6 Q Have you finished?

7 A I have finished reading.

8 Q Now, then, cannot you tell me whether that
9 is the correct copy filed in the Foreign Office records
10 of the decisions of that cabinet meeting?

11 A This is not in the original form as decided
12 at the cabinet. But I do recognize that it is a copy
13 of those decisions.

14 MR. COMYNS CARR: I ask that it be admitted
15 in evidence, your Honor.

16 THE PRESIDENT: Mr. Yamaoka.

17 MR. YAMAOKA: If your Honors please, I object
18 to this document's being a proper piece of evidence
19 in the case at this stage of the proceedings. I
20 respectfully submit that the prosecution has already
21 closed its case, and that is not proper evidence in the
22 nature of impeachment of this witness' testimony.

23 THE PRESIDENT: You can always get in evidence
24 relevant to the issue or relevant to facts in issue
25 in this way in cross-examination of the witnesses for

1 to appear as his American counsel pro hac vice for
2 the purpose of presenting the evidence which has been
3 prepared by his other counsel.

4 THE PRESIDENT: I do not quite follow. What
5 are you going to do for HIROTA? What will you fail to
6 do that his former counsel would have done? Are you
7 going to offer his evidence? Are you going to call his
8 witnesses?

9 MR. YAMAOKA: Yes, your Honor.

10 THE PRESIDENT: You are going to cross-examine
11 or examine them in chief? Are you going to re-examine
12 them? You are going to take his objections?

13 MR. YAMAOKA: I intend to do that, your Honor.

14 THE PRESIDENT: And you are going to sum up,
15 are you?

16 MR. YAMAOKA: Well, that has not yet -- I
17 only intend to present his evidence at the present time;
18 and during the course of it, the witnesses naturally
19 will be called and his other evidence, documentary
20 evidence, will be tendered. If objections are necessary
21 I intend to take them.

22 THE PRESIDENT: For the time being, so far as
23 we can judge HIROTA has the assistance of American
24 counsel.

25 Mr. Comyns Carr.

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21 I intend to take them.

22 THE PRESIDENT: For the time being, so far as
23 we can judge HIROTA has the assistance of American
24 counsel.

25 Mr. Comyns Carr.

ARAKI

CROSS

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1 15,841; 271, page 3,640; 1291, page 11,695; 491,
2 page 6037.
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1 THE PRESIDENT: Mr. Yamaoka.

2 MR. YAMAOKA: May it please the Tribunal,
3 it is true that Mr. HIROTA was not in office from
4 February to June 1937, but I submit that this is only
5 a brief period of a few months. Thereafter he con-
6 tinued in office until 1938, in May, during the First
7 KONOYE Cabinet. During his absence from office things
8 did transpire in China, and unless that story is
9 told, we respectfully submit, a true picture -- that
10 is, a satisfactory picture -- cannot be evolved.

11 The testimony of this witness is primarily
12 concerned with conditions in China; not in Tokyo
13 but in China, as of that period. I respectfully
14 submit that the events which there occurred did
15 affect the actions of the Japanese Government, and
16 particularly the accused HIROTA.

17 Now, in respect to paragraph 4, I do not
18 believe that this is mere gossip. The witness clearly
19 states that he was told by persons living there the
20 situation here.

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1 possible instructions had gone out from General Head-
2 quarters to be handed down to all Commanders in China
3 to the effect that these depredations must cease and
4 that Major General HOMMA had been sent to Nanking to
5 investigate and to ensure compliance. HIROTA said
6 that he confidentially expects the immediate cessation
7 of such looting. He furthermore authorized me to
8 inform you that in the light of the investigations
9 now being carried out full indemnification will be
10 made for losses and damages inflicted."

11 At this point, if the Tribunal please, I
12 desire to invite the attention of the Tribunal to
13 exhibit 972-G, record 9,521. This was the last
14 principle address by Mr. HIROTA in the Diet on
15 January 22, 1938.

16 Only a part of it was read into the record,
17 and while I do not propose to read the balance at
18 the present time, I do desire to state that we in-
19 tend to rely on the entire speech.

20 We offer in evidence defense document 2157.
21 This is an answer of Foreign Minister HIROTA before
22 the House of Representatives Committee on the Budget
23 at the 73rd session of the Imperial Diet on January
24 29, 1938.

25 THE PRESIDENT: Admitted on the usual terms.

1 know whether it is necessary to remind the Tribunal
2 that, of course, similar documents in the case of
3 ARAKI were rejected by the Court.

4 MR. YAMAOKA: If the Tribunal please --

5 THE PRESIDENT: Yes, Mr. Yamaoka.

6 MR. YAMAOKA: While it is true that this
7 statement was made by Count UCHIDA while Mr. HIROTA
8 was not in office, nevertheless, we believe it is
9 relevant in showing that the policy of Japan, that
10 is, the policy of the Japanese Government as to the
11 Non-Aggression Pact, had already been decided by
12 the previous government. Consequently, the attitude
13 and actions taken by the accused HIROTA subsequently
14 concerning this were not matters of his own choosing.

15 THE PRESIDENT: The objection is sustained
16 and the document rejected.

17 MR. YAMAOKA: I desire to call the witness
18 KAMEYAMA, Kazuji.

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KIDO

DIRECT

31,235

1 MR. T. OKAMOTO: I should like to conduct
2 additional direct examination on behalf of the accused
3 MINAMI.

4 DIRECT EXAMINATION (Continued)

5 BY MR. T. OKAMOTO:

6 Q Mr. Witness, in your affidavit, pages 29
7 to 31 in the English text and pages 42 to 44 in the
8 Japanese, you stated that on March 9, 1932, you
9 invited Colonel NAGATA, Tesuzan, then Chief of the
10 Military Administration Section of the War Ministry,
11 to your house and heard from him the explanation of
12 the so-called March Incident and the October Incident.

13 Now, Mr. Witness, was Colonel NAGATA con-
14 nected with the March and October incidents, or did
15 he take a position opposing them?

16 A I think that he stood opposed to those inci-
17 dents.

18 Q Mr. Witness, did you or did you not place
19 trust in Colonel NAGATA's explanation?

20 A I listened to him with confidence in his
21 explanation.

22 Q Mr. Witness, in your affidavit you frequently
23 use the words "machinations of militarists and plots."

24 Now, I ask you, did you or did you not obtain
25 at that time, that is, in 1931, any information that

KIDO

DIRECT

1 War Minister MINAMI participated in such machinations
2 or plots?

3 THE INTERPRETER: The witness' reply, "He
4 did not."

5 Q Have you at any time after 1931 received
6 information that MINAMI, as an army officer or as an
7 ordinary civilian, participated in what you call
8 machinations or plots?

9 A I have never received such information.

10 MR. T. OKAMOTO: Thank you. That is all, sir.

11 THE PRESIDENT: Mr. Lazerus.

12 DIRECT EXAMINATION (Continued)

13 BY MR. LAZARUS:

14 Q Marquis KIDO, in your affidavit you refer
15 to the militarists and the fact that you consistently
16 fought them and opposed them. Do you include General
17 HATA in this category?

18 A I do not include General HATA.

19 MR. LAZARUS: That is all. Thank you.

20 THE PRESIDENT: Mr. Roberts.

21 MR. ROBERTS: Examination on behalf of the
22 defendant OKA.

23 DIRECT EXAMINATION (Continued)

24 BY MR. ROBERTS:

25 Q Marquis KIDO, on page 134 of your affidavit,

1 you refer to some information received from your
2 Chief Secretary MATSUDAIRA, and contained in prosecu-
3 tion exhibit 1115. It is stated in exhibit 1115,
4 which is an entry on July 15, 1941, the second sentence --
5 I will read just two sentences:

6 "There still remained a certain vagueness
7 about Foreign Minister MATSUOKA's attitude towards the
8 proposal formula for a Japan-American understanding.
9 Under the circumstances, up to yesterday the Premier
10 was of the opinion that should the Foreign Minister
11 agree to the formula prepared by the Director of
12 Military Affairs and the Director of Naval Affairs,
13 with a few alterations he would push the policy as
14 it was."

15 Were you referring to the original formula
16 for the American-Japanese negotiations, Marquis?

17 A Having had no connection with this matter,
18 I do not know the details. However, it is my under-
19 standing that some revisions were contemplated on
20 the original formula.

21 Q What was the approximate date of the original
22 formula?

23 A I don't know which was the original formula.

24 Q Would that be in April when the negotiations
25 were begun, '41?

1 ever coming to fruition in the light of the situation
2 then existing, and, secondly, because full confidence
3 and trust could not be placed in the person who was
4 to act as a mediating agent. The word "Government"
5 was now used and perhaps this was my fault, but I
6 should have said "a part or section of the Government."

7 Q Was that the only reason?

8 A That is all in my understanding.

9 Q You go on in the next sentence and say "But
10 Prime Minister KOISO was very enthusiastic and proceeded
11 to the palace and reported to the Throne on his plan
12 for direct peace negotiation..."

13 Were you present when he did this?

14 A No.

15 Q You were not present?

16 A I was not present.

17 Q How did you learn of it?

18 A I heard of this later from His Majesty.

19 Q Why was he making direct peace negotiations
20 at this time rather than going through his Foreign
21 Minister? Was it because he was being opposed?

22 A I am unfamiliar with such internal matters of
23 the Government.

24 Q Wasn't this enthusiasm of KOISO for peace also
25 called to the attention of the Throne by other members

1 Q Was it not part of the duty of the responsible
2 ministers of state to carry out these national policies
3 already decided upon?

4 A Yes, that is so.

5 Q With reference to paragraph 39 in your
6 affidavit, in that paragraph you refer to a letter sent
7 to the Lord Keeper of the Privy Seal at that time,
8 Lord MAKINO, the day following the so-called May 15th
9 Incident?

10 A Yes.

11 Q In that letter you make certain reference,
12 certain opinions to politics. Now, was the Lord Keeper
13 of the Privy Seal in a position to carry out such
14 political matters, was it within his right to carry
15 out such matters?

16 A This was at a time when an unusual incident
17 broke out and the cabinet as a consequence collapsed,
18 and this was submitted as advice with reference to
19 what policies the succeeding cabinet should undertake
20 to carry out. That, of course, was within his author-
21 ity to do.

22 Q Is it not true that at that time Prince
23 SAIONJI, the Elder Statesman, was still living, and
24 in decisions concerning the formation of a cabinet
25 the Elder Statesman was consulted, and not the Lord

1 expenditures showed some increase from year to year.

2 Q How much is "some increase"?

3 A I am afraid I don't remember the extent of the
4 increase.

5 Q But you are quite sure there was an increase
6 over 1938 in 1939 and subsequent years?

7 A Yes, I do know that.

8 Q Prices of other things in general rose during
9 those years too, did they not?

10 A I believe they did.

11 Q Well, now, Mr. Witness, to shorten this, don't
12 you know for a fact that the passage of the National
13 Service Law in 1939 did not contemplate nor import any
14 increase in the size of the armed forces of the Man-
15 chukuo Government, but represented merely an effort to
16 consolidate and rationalize the pre-existing military
17 forces of and in the country?

18 COLONEL IVANOV: If your Honor please, the wit-
19 ness has already replied that in 1939 he was not in
20 Manchuria, and the information that he has already given
21 to the questions asked by the defense do cover the
22 matter.
23

24 MR. BLAKENFY: I don't think this witness re-
25 quires any assistance whatever from counsel.

THE PRESIDENT: He did profess to have some

TAKEBE

DIRECT

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1 used Manchukuo resources for that purpose. From 1935
2 through 1938 I stayed in Manchuria holding the offices
3 of Chief of the Administrative Section and then of
4 Chief of the Kwantung Territory Bureau."

5 Signed, "TAKEBE, Rekuzo."

6 The defense may cross-examine witness TAKEBE,
7 Rekuzo.

8 MR. BLAKENEY: If permitted, I should like
9 before commencing, to make a statement of our position.

10 THE PRESIDENT: This Court -- I do not know
11 what you have to say, Major Blakeney, but don't bring
12 up that matter we have just closed.

13 MR. BLAKENEY: I don't think I have ever brought
14 up a matter that has been closed, so far as I know. I
15 have no desire to do so now.

16 COLONEL IVANOV: Your Honor, I must categori-
17 cally object to the defense making preliminary state-
18 ments as the prosecution has made no such statements.

19 THE PRESIDENT: We must hear what Major Blakeney
20 is going to say.

21 MR. BLAKENEY: Language Section, this is paper
22 No. 1.

23 In connection with the tender by the Soviet
24 prosecution of five witnesses for cross-examination, I
25 should like to call the attention of the Tribunal to one

time the rule was that only one counsel could examine.

1 THE PRESIDENT: I am afraid we are all
2 against you, Captain Brooks. The objection is upheld
3 and the document rejected.

4 MR. BROOKS: May I further examine this
5 witness then, your Honor, as to the falsity of the
6 affidavit which you have on record, which does not
7 have a proper certificate.

8 THE PRESIDENT: There is no finding on the
9 value of the certificate by the Tribunal, which alone
10 makes findings. The grounds for excluding the further
11 affidavit, or the affidavit, are also the grounds for
12 not hearing him further.

13 MR. BROOKS: I ask the Court then to consider
14 a motion to strike the exhibit, 158, since we have
15 the witness on the stand, who says it is not his
16 affidavit and that it is not correct, and I am willing
17 to prove it.

18 THE PRESIDENT: The application is refused.

19 MR. BROOKS: I understand you have no further
20 use for this witness then?

21 THE PRESIDENT: None. The witness is released
22 on the usual terms.

23 (Whereupon, the witness was excused.)

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22 on the usual terms.

23 (Whereupon, the witness was excused.)

24 MR. BROOKS: I would like to have for the
25

cross-examination.

1 THE PRESIDENT: He said he read it in
2 English and that the statements in English were
3 true. What more do we want? And he was cross-
4 examined fully.

5 MR. BROOKS: That is explained in the
6 present affidavit being offered, your Honor.

7 THE PRESIDENT: Anyway, he also heard the
8 Japanese translation of what was read in court in
9 English. as I am reminded.

10 MR. BROOKS: And that explains his answers
11 on cross-examination which are diametrically opposed
12 to everything in the other affidavit, your Honor, and
13 in the affidavit I am offering--

14 THE PRESIDENT: You can rely on that cross-
15 examination. There is really no occasion for a fresh
16 affidavit. No Member of the Court thinks so, at all
17 events.

18 MR. BROOKS: If the Court please, I would
19 like to be heard further on that because of the
20 reason of an objection being made at the time that
21 we could not -- the Japanese counsel who was cross-
22 examining could not understand what questions to
23 ask the witness because he couldn't read the English
24 and I was foreclosed from examining because at that
25

1 MR. BROOKS: 23, Language Section.

2 Now the defense would like to call
3 KATAKURA, Tadashi as a witness.

4 ACTING PRESIDENT: Wasn't this one of the
5 witnesses the prosecution isn't going to cross-examine?
6

7 MR. BROOKS: I have some additional documents
8 I wish to present.

9 This witness has been previously sworn.

10 T A D A S H I K A T A K U R A, recalled as a
11 witness in behalf of the defense, having been
12 previously sworn, testified through Japanese
13 interpreters as follows:

14 DIRECT EXAMINATION

15 BY MR. BROOKS:

16 Q State your name and address.

17 A My name is KATAKURA, Tadashi. My present
18 address is No. 2658, Kami-meguro-gocho, Meguro-ku,
19 Tokyo.
20

21 ACTING PRESIDENT: I want to remind you,
22 Witness, that you are still under oath.

23 MR. BROOKS: I ask that defense document
24 2047 be shown to the witness.

25 (Whereupon, a document was shown
to the witness.)

KATAKURA

DIRECT

32,867- $\frac{1}{2}$

1 Q Is that your affidavit?

2 A Yes.

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telegram?

1 A This air force did not go into Manchuria
2 directly.

3 Q Where did they go?

4 A When the air force arrived at Shingishu
5 there was inclement weather and also a breakdown in
6 aircraft; that the air force withdrew to Shingishu
7 and to other bases in the rear.

8 Q When did they advance to Manchuria?

9 A About two or three days later.

10 Q Was that without Imperial sanction also?

11 A At that time there was an Imperial Order
12 sanctioning it.

13 Q That happened after the 22nd of September?

14 A Yes.

15 MR. WOOLWORTH: I have no further questions.

16 MR. BROOKS: May the witness be excused?

17 ACTING PRESIDENT: He is excused accordingly.

18 (Whereupon the witness was excused.)

19 ACTING PRESIDENT: We will now take a recess
20 for fifteen minutes.

21 (Whereupon, at 1445, a recess was
22 taken until 1500, after which the proceed-
23 ings were resumed as follows:).
24
25

KODAMA

DIRECT

32,870

1 MR. WOOLWORTH: No cross-examination of this
2 witness, if the Tribunal please.

3 MR. BROOKS: May the witness be excused on
4 the usual terms?

5 ACTING PRESIDENT: He is excused accord-
6 ingly.

7 (Whereupon the witness was excused.)

8 MR. BROOKS: The defense requests that
9 KODAMA, Tomeo be called as the next witness.

10 MARSHAL OF THE COURT: Mr. President, the
11 witness KODAMA, Tomeo is in court. He has previously
12 testified before the Tribunal.

13
14 T O M E O K O D A M A, called as a witness on
15 behalf of the defense, testified through
16 Japanese interpreters as follows:

17 ACTING PRESIDENT: You are warned that you
18 are still under oath, Witness.

19 BY MR. BROOKS:

20 Q Mr. Witness, have you ever testified in this
21 court before?

22 A No, I have not.

23 MR. BROOKS: I didn't think he had, your
24 Honor.

25 (Whereupon, the witness was duly sworn.)

KODAMA

DIRECT

32,870

1 MR. WOOLWORTH: No cross-examination of this
2 witness, if the Tribunal please.

3 MR. BROOKS: May the witness be excused on
4 the usual terms?

5 ACTING PRESIDENT: He is excused accord-
6 ingly.

7 (Whereupon the witness was excused.)

8 MR. BROOKS: The defense requests that
9 KODAMA, Tomeo be called as the next witness.

10 MARSHAL OF THE COURT: Mr. President, the
11 witness KODAMA, Tomeo is in court. He has previously
12 testified before the Tribunal.

13
14 T O M E O K O D A M A, called as a witness on
15 behalf of the defense, testified through
16 Japanese interpreters as follows:

17 ACTING PRESIDENT: You are warned that you
18 are still under oath, Witness.

19 BY MR. BROOKS:

20 Q Mr. Witness, have you ever testified in this
21 court before?

22 A No, I have not.

23 MR. BROOKS: I didn't think he had, your
24 Honor.

25 (Whereupon, the witness was duly sworn.)

KODAMA

DIRECT

32,870

1 MR. WOOLWORTH: No cross-examination of this
2 witness, if the Tribunal please.

3 MR. BROOKS: May the witness be excused on
4 the usual terms?

5 ACTING PRESIDENT: He is excused accord-
6 ingly.

7 (Whereupon the witness was excused.)

8 MR. BROOKS: The defense requests that
9 KODAMA, Tomeo be called as the next witness.

10 MARSHAL OF THE COURT: Mr. President, the
11 witness KODAMA, Tomeo is in court. He has previously
12 testified before the Tribunal.

13
14 T O M E O K O D A M A, called as a witness on
15 behalf of the defense, testified through
16 Japanese interpreters as follows:

17 ACTING PRESIDENT: You are warned that you
18 are still under oath, Witness.

19 BY MR. BROOKS:

20 Q Mr. Witness, have you ever testified in this
21 court before?

22 A No, I have not.

23 MR. BROOKS: I didn't think he had, your
24 Honor.

25 (Whereupon, the witness was duly sworn.)

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1 Page 1, paragraph 13 of the affidavit, the
2 sentence beginning "As the War Minister" down to
3 "diplomatic matters:" exhibit 1104, page 10,081;
4 exhibit 2219, page 15,841; exhibit 2218, page
5 15,837; exhibit 2216, page 15,832.

6 Again, page 17, paragraph beginning "As for
7 the problems" down to "independence:" exhibit 1104,
8 page 10,081.

9 Same page, paragraph beginning "These ex-
10 planations" down to "Nations:" same exhibit.

11 Page 19 -- I am not quite sure in which of
12 the sections on this page that part is. It is either
13 the end of 13 or the beginning of 14 -- paragraph
14 beginning "Standing from the League" down to "wit-
15 nesses:" exhibit 2222, page 15,845.

16 Page 20, section 14-A, paragraph beginning
17 "To cope with this" down to "Soviet Union:" exhibit
18 668, page 7,332; exhibit 670, page 7,331.

19 Page 20 again, second section,
20 paragraph beginning "I do not admit" down to "expres-
21 sion:" exhibit 746, page 7,720; exhibit 747, page
22 7,727; exhibit 671-A, page 7,336;
23 exhibit 730, page 7,964; and exhibit 667, page 7,309.
24
25

NOTE:

1-Dec '47

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

1 I beg your pardon -- page 35, section 24, paragraph
 2 beginning "My duty as Education Minister" down to
 3 "meeting:" exhibits 2218, page 15,837; 2219, page
 4 15,841; 271, page 3,460; 1291, page 11,695; 491,
 5 page 6,037.

1 SHIGEMITSU and Councillor Ting.

2 Q One moment -- this has nothing to do with
3 that conversation. What I am suggesting to you is
4 now another statement by SHIGEMITSU to Baron HARADA on
5 the same day, the 19th of November.

6 A And I am convinced that Mr. SHIGEMITSU could
7 never have made such a statement.

8 Q Did not HIROTA himself say on the same day
9 that he would like to have the declaration in North
10 China, that is the autonomy declaration, issued at
11 such a time that it would not aggravate the Nanking
12 Government?

13 A No, I have never heard him make such a
14 statement.

15 Q Now, only one other matter, I think, that I
16 need ask you about. I will just be sure. Oh, no,
17 there are two.

18 You say, in paragraph 13 of your affidavit,
19 that meanwhile, that is, during the same period when
20 this North China autonomy business was going on,
21 that the negotiations for the improvement of Sino-
22 Japanese relations were making steady progress.

23 A By "meanwhile" I did not mean during the same
24 period while the negotiations for the autonomy move-
25 ment were going on, but meanwhile, in a general sort

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Colonel Fixel.

4 COLONEL FIXEL: May I proceed?

5 THE PRESIDENT: Yes.

6 BY COLONEL FIXEL (Continued):

7 Q Witness, have you completed your answer to
8 the last question?

9 A No, I have not. May I continue?

10 Q Yes.

11 A I entertained doubts whether Miao Pin was
12 actually and surely maintaining radio communication
13 with Chungking with the wireless apparatus that he
14 had in his possession. And so I arranged to have Miao
15 Pin when coming to Tokyo to bring along with him his
16 wireless apparatus and his operator and have him ac-
17 tually communicate through this apparatus with Chung-
18 king and at the same time have our own wireless sta-
19 tions intercept the message to find out whether every-
20 thing was bona fide.

21 Q Isn't it a fact that Miao Pin came to Tokyo
22 without his radio apparatus, and that the Japanese
23 refused to fly his apparatus to Japan from Shanghai?

24 A In my affidavit I have stated that there
25 were various impediments in the way. It was scheduled

1 "At the same time the following telegram was
2 received from the Chief of General Staff:

3 "1. I believe that the resolutions and
4 measures taken by the Commander of the Kwantung Army
5 since the night of September 18th are appropriate to
6 the occasion and have enhanced the prestige of the
7 Japanese Army.

8 "2. In view of the Chinese attitude, etc.
9 since the outbreak of the incident, the Cabinet has
10 decided not to go beyond what is necessary in dealing
11 with the incident. The Army should, therefore, conform
12 with this principle in its action."

13 Referring back to note on No. 8, Language
14 Section.

15 As to the circumstances under which these
16 telegrams were sent and received I refer to testimonies
17 of KATAKURA, Tadashi (Court Record pages 18,890;
18 18,897-18,901), TAKEDA, Hisashi (Court Record pages
19 19,325-19,327), KAWABE, Torashiro (Court Record page
20 19,414), and MINAMI (Court Record pages 19,779-19,782)
21 and KOISO (Court Record page 32,217).

22 I continue reading exhibit No 3420, defense
23 document No. 2739, from paragraph 3 on page 2.

24 "3. From August 1933 to March 1937 I was
25 attached to the General Staff, Tokyo. During this period

TAKEDA

DIRECT

32,839

1 I now read exhibit 3422-D.

2 "Sept. 22nd, 1931.

3 "From: Chief of General Staff.

4 "To: Commander of Kwantung Army.

5 "Telegram No. 39.

6 "'I approve the actions of your army up
7 to now as timely and upholding the prestige of the
8 country and the army. As to the future actions,
9 however, you must maintain the present formation in
10 line with your original duties, keeping a quiet
11 watch with strict fairness, unless the situation takes
12 an extraordinary sudden turn.'"

13 As to the circumstances mentioned in this
14 telegram, I refer to KAWABE's testimony, court record
15 pages 19,415-19,416.

16 I next read exhibit 3422-E.

17 "Sept. 23rd, 1931.

18 "From: Chief of Staff of Kwantung Army.

19 "To: Vice-Minister of War and Vice-Chief of
20 General Staff.

21 "Telegram No. Kan-San 435.

22 "'The present incident has absolutely no
23 connection with Fushun case reported by Consul-General
24 HAYASHI to the Foreign Minister. Please have no
25 anxiety whatsoever. Details have been told to ANDO.

1 "From: War Minister.

2 "To: Commander of Kwantung Army.

3 "Telegram No. Riku-Man 20.

4 "'Even if the condition in Chientao becomes
5 serious, the military force shall not be used, but
6 the aggravation of the situation ought to be avoided
7 by relying on the police power.'"

8 As to the circumstances mentioned in these
9 telegrams, I refer to testimonies of KATAKURA, court
10 record pages 18,813-18,924; KAWABE, court record
11 pages 19,416-19,417; and MINAMI, court record pages
12 19,787-19,788.

13 In this connection I offer in evidence
14 defense document 1938, an excerpt from exhibit 3038-G,
15 to show that Major-General HASHIMOTO, Toranosuke (not
16 the accused HASHIMOTO) was sent to Manchuria by
17 MINAMI's instructions of September 24, 1931, for the
18 purpose of regulating the actions of the Kwantung Army
19 in conformity with the policy of the government.

20 ACTING PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 1938
22 will receive exhibit No. 3425.

23 (Whereupon, the document above
24 referred to was marked defense exhibit
25 No. 3425 and received in evidence.)

General?

1 Did you at any time at any of the liaison
2 conferences ever hear any member of the Navy advocate
3 an attack upon the United States without notice
4 beforehand?

5 A I do not remember that at all.

6 Q Well, do you consider that an important
7 matter, General?

8 A Yes, it is important.

9 Q Then, if it occurred, do you not think that
10 you would remember it?

11 A Yes, I do.

12 Q Did you attend the Liaison Conference held
13 on December 2nd, 1941?

14 A I don't believe there was a meeting on the
15 2nd.

16 Q Well, if testimony was given before this
17 Tribunal that Vice-Admiral ITO, then Chief of the
18 Naval General Staff, at a liaison conference advocated
19 an attack upon the United States without notice and
20 that he did so on December 2nd, 1941, would it be at
21 error on both points?

22 A I do not recall. According to my memory, no
23 meeting was held on the 2nd of December, 1941, and I
24 do not remember having heard Admiral ITO advocating an
25

1 TAKUSHIRO HATTORI, recalled as a wit-
2 ness on behalf of the defense, having been pre-
3 viously sworn, testified through Japanese inter-
4 preters as follows:

DIRECT EXAMINATION

5 BY MR. WARREN:

6 Q Will you state your name and present address
7 to the Tribunal, please?
8

9 A My name is HATTORI, Takushiro. My address is
10 No. 42 Honmura-Cho, Shinkuku-ku, Tokyo.

11 MR. WARREN: May the witness be handed defense
12 document 2230?

13 (Whereupon, a document was handed to
14 the witness.)

15 Q Will you examine that document, please, and
16 tell the Court whether or not that is your affidavit
17 and if the contents thereof are true?

18 A This is unquestionably my affidavit. Its
19 contents are true.

20 MR. WARREN: At this time, if the Tribunal
21 please, we offer in evidence defense document 2230
22 except the last paragraph on page 3 commencing with
23 the words "knowing the situation" and ending with
24 "Nomonhan Incident."
25

THE PRESIDENT: Admitted on the usual terms.

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

1 Y E I I C H I T A T S U M I, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. WARREN:

6 Q Will you state your name and present address
7 to the Tribunal, please?

8 A My name is TATSUMI, Yeichi. My address is
9 Inasa, Taisha-machi, Hikawa-Gun, Shimane-ken.

10 MR. WARREN: May the witness be handed de-
11 fense document 2489?

12 Q Will you look at that document and tell the
13 Court whether or not it is your affidavit, and whether
14 or not the contents are true?

15 A They are true and correct.

16 MR. WARREN: At this time we offer in evidence
17 defense document No. 2489.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Defense document 2489
20 will receive exhibit No. 3189.

21 (Whereupon, the document above
22 referred to was marked defense exhibit No.
23 3189 and received in evidence.)

24 MR. WARREN (Reading): "I have been asked if
25 I know anything about General DOHIHARA's attitude

TATSUMI

DIRECT

28,750

1 Y E I I C H I T A T S U M I, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. WARREN:

6 Q Will you state your name and present address
7 to the Tribunal, please?

8 A My name is TATSUMI, Yeichi. My address is
9 Inasa, Taisha-machi, Hikawa-Gun, Shimane-ken.

10 MR. WARREN: May the witness be handed de-
11 fense document 2489?

12 Q Will you look at that document and tell the
13 Court whether or not it is your affidavit, and whether
14 or not the contents are true?

15 A They are true and correct.

16 MR. WARREN: At this time we offer in evidence
17 defense document No. 2489.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Defense document 2489
20 will receive exhibit No. 3189.

21 (Whereupon, the document above
22 referred to was marked defense exhibit No.
23 3189 and received in evidence.)

24 MR. WARREN (Reading): "I have been asked if
25 I know anything about General DOHIHARA's attitude

1 toward aggressive war.

2 "15. The books of HASHIMOTO, Kingoro -
3 'Advice to Youth', 'The Second Creation', 'The Inevi-
4 table Renovation', 'How to Rebuild World', 'The Declara-
5 tion of HASHIMOTO, Kingoro', and his essays in the
6 'Taiyo Dai Nippon', were all written after he gave up
7 his military career and had become an ordinary civil-
8 ian. . . .

9 "16. The above mentioned books are all re-
10 productions of the essays appearing in the 'Taiyo Dai
11 Nippon'."

12 You may cross-examine.

13 THE PRESIDENT: Colonel Woolworth.

14 MR. WOOLWORTH: If the Tribunal please, I
15 would invite the Tribunal's attention to paragraph 8
16 of exhibit 3193; to exhibit 2188, which will be found
17 in the record at pages 15,680-1.

18 There is no cross-examination of the witness.

19 THE PRESIDENT: The witness is released on
20 the usual terms.

21 (Whereupon, the witness was excused.)

22 MR. HARRIS: I wish now to call the witness
23 SUZUKI, Takashi, whose testimony is contained in
24 defense document 2130.
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YONAI

DIRECT

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1 M I T S U M A S A Y O N A I, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. LAZARUS:

6 Q Will the witness please state his full name?

7 A YONAI, Mitsumasa.

8 MR. LAZARUS: May document 2044 please be
9 shown the witness?

10 (Whereupon, a document was shown to
11 the witness.)

12 THE PRESIDENT: There is no need to read the
13 whole affidavit, surely.

14 Q Is that your affidavit?

15 A Yes.

16 MR. LAZARUS: We offer in evidence defense doc-
17 ument 2044, and will omit the last three lines of the
18 last paragraph:

19 (Reading:) "I was a member of various Japan-
20 ese Governments over a period of years and since 1937
21 I held the following position:"

22 THE PRESIDENT: Wait a minute.

23 Admitted on the usual terms.

24 MR. LAZARUS: Oh, I am sorry.

25 CLERK OF THE COURT: Defense document 2044
will receive exhibit No. 3198.

YONAI

DIRECT

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1 M I T S U M A S A Y O N A I, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. LAZARUS:

6 Q Will the witness please state his full name?

7 A YONAI, Mitsumasa.

8 MR. LAZARUS: May document 2044 please be
9 shown the witness?

10 (Whereupon, a document was shown to
11 the witness.)

12 THE PRESIDENT: There is no need to read the
13 whole affidavit, surely.

14 Q Is that your affidavit?

15 A Yes.

16 MR. LAZARUS: We offer in evidence defense doc-
17 ument 2044, and will omit the last three lines of the
18 last paragraph:

19 (Reading:) "I was a member of various Japan-
20 ese Governments over a period of years and since 1937
21 I held the following position:"

22 THE PRESIDENT: Wait a minute.

23 Admitted on the usual terms.

24 MR. LAZARUS: Oh, I am sorry.

25 CLERK OF THE COURT: Defense document 2044

will receive exhibit No. 3198.

those corrections state the facts?

MR. McMANUS: I shall ask him, your Honor.

BY MR. McMANUS, (continued):

Q General ARAKI, are the statements you made in your affidavit true?

A It is true.

THE PRESIDENT: No, this affidavit is being amended without reference to him.

MR. McMANUS: I shall ask him about that, your Honor.

THE PRESIDENT: It is pretty irregular.

Q General, are the facts just stated, amending the affidavit -- are they true as amended?

A Yes.

MR. McMANUS: Now, if the Court pleases, there are just a few other questions I should like to put to this witness concerning his direct examination.

Q General ARAKI, the prosecution offered in evidence an excerpt from the Japan Advertiser, exhibit 671-A, which is a report of your speech as Education Minister on July 11, 1938, in Osaka at the Osaka Political and Economic Research Association, in which you are charged to have said that Japan's determination to fight against the Soviet and China

NOTE:

The attached pages are corrected pages and should be substituted for the corresponding pages in the record.

1 affairs a long protracted war, lasting ten or twenty
2 years, Japan could not endure such a protracted war --
3 such an affair. Not war, an affair.

4 THE MONITOR: Strike out the "war" and just
5 say, with such an idea it would be impossible for
6 Japan to endure an affair which may last ten or twenty
7 years.

8 THE PRESIDENT: Who said strike out "war,"
9 the witness or the interpreter?

10 THE MONITOR: The interpreter, sir. That
11 was a correction by the monitor.

12 THE PRESIDENT: Did the witness at any time
13 use the word "war?"

14 THE MONITOR: No, sir.

15 A (Continuing) And therefore I told the Economic
16 Association that instead of getting all in a dither and
17 taking hurried steps to enforce controlled economy,
18 they should take time so that things could be done from
19 a sound basis. Immediately after this speech I made
20 a speech to the same effect at the Osaka Public Hall
21 and therefore if this speech is read it will not be
22 necessary for me to make any further remarks.

23 MR. McMANUS: May the witness see defense
24 document 674?
25

Q General, I now show you defense document 674

1 MR. COMYNS CARR: The first document is a
2 long speech or lecture or essay of twenty-three pages,
3 most of which has nothing whatever to do with the
4 subjects on which he was being interrogated, but
5 relates to his **experiences in World War I** and the
6 ideas which he formed as a result of those exper-
7 iences, all of which, irrelevant though in my sub-
8 mission it is, is contained in the affidavit.

9 THE PRESIDENT: You contend it is rep-
10 titive?

11 MR. COMYNS CARR: Repetitive and irrelevant;
12 mostly irrelevant.

13 THE PRESIDENT: It is hardly likely that he
14 had made in this document now tendered a point which
15 he omitted from his affidavit, but it may be so.
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1 was raised by me on the first document. It wasn't
2 overlooked. Well, I will take the views of my
3 colleagues, but if we give a decision on one docu-
4 ment and immediately after reverse it for no good
5 reason on the next, where do we stand?

6 By a majority the objection is upheld and the
7 document rejected.

8 MR. McMANUS: I now ask that the witness be
9 shown defense document 1899-D.

10 I believe the witness is looking at defense
11 document 1835. 1899-D is the one I request that he be
12 shown.

13 THE PRESIDENT: Apparently the Marshal of the
14 Court hasn't that.

15 Mr. Comyns Carr.

16 MR. COMYNS CARR: If your Honor pleases, no
17 such document is on the list served upon us, nor, as
18 far as I can place it, is the document on the order
19 of proof.
20

21 I am mistaken.

22 THE PRESIDENT: It is on the Judges order of
23 proof.

24 MR. McMANUS: Mr. Carr stated he overlooked
25 it, that it is on his order of proof, your Honor.

(Whereupon, Mr. Comyns Carr took

1 a position in front of the lectern.)

2 THE PRESIDENT: It is not tendered yet, Mr.
3 Comyns Carr.

4 MR. McMANUS: May I put the question to the
5 witness, if the Court pleases?

6 Q General, I show you a statement by General
7 UEDA depicting his efforts to settle the Shanghai
8 Incident. Will you tell us whether or not you direc-
9 ted General UEDA to make this statement, or is this
10 the statment you told General UEDA to make?

11 MR. COMYNS CARR: The prosecution objects to
12 that question. This is one of the type of documents
13 which is, in our submission, covered by the uncomple-
14 ted argument, which is to be resumed as soon as my
15 friend has finished asking the witness questions. In
16 our submission, its admissibility or otherwise will be
17 covered by the decision on that point.

18 THE PRESIDENT: His direction given to the
19 army, either given by himself or others, would not be
20 in the nature of a self-serving statement at all.

21 MR. COMYNS CARR: Your Honor, the point I
22 am making has nothing to do with self-serving stato-
23 ments. The point is that the document is part of the
24 general history of that phase --

25 THE PRESIDENT: Oh, I see.

1 MR. COMYNS CARR: (Continuing) -- and
2 whether it will be admitted at this stage depends upon
3 the result of the application which the learned Chief
4 Prosecutor made yesterday which has not yet been con-
5 cluded.

6 THE PRESIDENT: But did AR I make this state-
7 ment or did he get General UEDA to make it?

8 MR. McMANUS: It is my intention to bring
9 out through the witness that he instructed General
10 UEDA to make it.

11 THE PRESIDENT: He should be at liberty to
12 state his own personal part in these matters. That
13 was recognized yesterday by the learned Chief Counsel
14 when he said there may be exceptions. This may be one.

15 By a majority the Court overrules the objec-
16 tion and allows the question.

17 BY MR. McMANUS: (Continued)

18 Q Will you please answer the question, General?

19 A The document which was just shown to me was a
20 different one. I would like to have the proper one
21 shown to me.

22 MARSHAL OF THE COURT: 1899-D? Is that the
23 one you want?

24 MR. McMANUS: Yes.

25 (Whereupon, a document was handed

to the witness.)

1 THE WITNESS: This is a statement made by
2 Divisional Commander UEDA on the front lines, and the
3 contents of this statement include the instructions
4 which I gave him at the time he left for his post.
5

6 THE INTERPRETER: "Based on his understanding
7 of my intention as embodied in instructions give him
8 at his departure."

9 MR. McMANUS: I offer same in evidence, if
10 the Court pleases.

11 THE PRESIDENT: Were the instructions in
12 writing?

13 THE WITNESS: I recognize -- I believe that
14 the instructions were given in writing.

15 THE PRESIDENT: This is admitted on the usual
16 terms, without objection.

17 MR. McMANUS: At this point, if the Tribunal
18 pleases, I have other documents, but I request that I
19 may be permitted to suspend now so that the argument
20 may be continued on the question raised by Mr. Keenan
21 yesterday.
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19 may be permitted to suspend now so that the argument
20 may be continued on the question raised by Mr. Keenan
21 yesterday.
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1 This application is untimely as it should have been
2 made last February when the defendants commenced pres-
3 entation of evidence in the general phases.

4 Dr. KIYOSE stated in his opening statement,
5 on Pages 17,013 and 17,014 of the record, with respect
6 to the general phases: ". . . So the defendants and
7 their counsel have come to an agreement that they will
8 produce, as far as possible, evidence in common where
9 the offenses charged are in common." With respect
10 to the individual phases he stated: "It may be prob-
11 able that since the interests, views and actions of
12 some of the accused were opposed to each other, con-
13 flicting evidence will be presented. In so doing
14 some of the accused may, from their own standpoint,
15 demand exceptions to the facts and evidence as adduced
16 in the above five divisions or may furnish other evid-
17 ence in their individual interest."

18 No objection was then made (by the prosecution
19 to the procedure adopted by the defendants of present-
20 ing their evidence in general phases and in individual
21 phases.
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pass on to the great beyond without any result.

1 THE PRESIDENT: Throughout the trial, the
2 Tribunal has been consistent in rejecting everything
3 irrelevant, immaterial and repetitive and will con-
4 tinue to do so. We will reserve our decision.

5 Mr. McManus.

6 MR. McMANUS: It is not my intention to read
7 exhibit 3163-A at this time, if the Court please. I
8 shall proceed to another document.

9 May the witness be shown defense document
10 1899-A, please?

11 (Whereupon, a document was handed
12 to the witness.)

13 This is a statement of Army Commander SHIRA-
14 KAWA made to the 9th Division whereby he expressed a
15 reluctance to fight re the Shanghai Incident.
16

17 DIRECT EXAMINATION

18 BY MR. McMANUS (Continued):

19 Q General, can you tell us whether or not you
20 gave Commander SHIRAKAWA such instructions?

21 A The views -- the policies of the government
22 and of the army concurred, and the same instructions
23 which were given to Divisional Commander UEDA at the
24 time of his departure were also given to General
25 SHIRAKAWA at the time of his departure.

DIRECT EXAMINATION (Continued)

1 BY MR. BLAKENEY:

2 Q General ARAKI, what is the extent of your
3 acquaintance with the defendant TOGO, Shigenori?
4

5 A As public men I had hardly anything to do
6 with him -- we had hardly anything to do with each
7 other.

8 Q You have stated in your affidavit that at
9 no time did you conspire with anyone to commit any of
10 the crimes charged by the prosecution. You have read
11 the Indictment, of course?

12 A Yes, I have.

13 Q Now I wish to ask you whether at any time
14 between the first of January 1928 and the second of
15 September 1945 you discussed with the defendant TOGO
16 the formulation or execution of a plan that "Japan
17 should secure the military, naval, political and eco-
18 nomic domination of East Asia and of the Pacific and
19 Indian Oceans, and of all countries and islands thereir
20 and bordering thereon and for that purpose (Japan)
21 should alone or in combination with other countries
22 having simular objects, or who could be induced or
23 coerced to join therein, wage declared or undeclared
24 war or wars of aggression, and war or wars in violation
25 of international law, treaties, agreements and

1 THE PRESIDENT: The Tribunal still has
2 control of its own proceeding. We desire to hear
3 you, Major Blakeney, unless you have concluded.

4 MR. BLAKENEY: I had done, your Honor.

5 MR. WARREN: I would not presume to take
6 the microphone from an attorney who had not finished,
7 your Honor.

8 THE PRESIDENT: That attorney did not
9 announce to the Court that he had finished his exami-
10 nation. If he did, I did not hear his announcement.

11 MR. WARREN: Now, your Honor, in view of
12 what I said before the objection was interposed, I
13 have a question which I feel that I should ask each
14 of the witnesses, each of the accused who take the
15 stand as a witness. I want to know if your Honor
16 feels that the ruling covers that question. I will
17 tell you briefly what it is.

18 THE PRESIDENT: If you put a question to the
19 witness and objection is taken, the Tribunal will decid
20 on the objection.

21 MR. WARREN: Thank you, sir.

22 DIRECT EXAMINATION (Continued)

23 BY MR. WARREN:

24 Q General ARAKI, you have been accused by the
25 Indictment in this case of having conspired with many

of the accused under different counts. Did you ever
at any time enter into a conspiracy by word, act, or
deed to your knowledge with the accused DOHIHARA or
with the accused HIRANUMA?

THE PRESIDENT: The accused has already
answered that in his affidavit.

MR. WARREN: He has, your Honor. I wanted
to explain to the Court why I asked that. By a process
of elimination somewhere down the line if none of the
accused ever talked to these men, it would not appear
they could have entered into a common plan. That is
the reason, but if the ruling of the Court previously
covered it we shall not ask it any more. But I do
want to show that I should have asked those questions
of each of the accused who take the witness stand.

THE PRESIDENT: The accused has already
denied any conspiracy with any of the other accused.
He need not repeat his denial.

CROSS-EXAMINATION

1 BY MR. COMYNS CARR:

2 Q Now, General ARAKI, on page 4, paragraph 2
3 of your affidavit and in section 28 of your affidavit,
4 beginning at page 38, you say that no reliance can be
5 placed upon your interrogations because the interpreters
6 were incompetent, and you say that the interpreters
7 admitted their incompetence.
8

9 MR. COMYNS CARR: Would Mr. Kildoyle kindly
10 stand up, please?

11 (Whereupon, Mr. Kildoyle arose.)

12 Q Would you turn around, General, and look at
13 him? He is behind you.

14 THE PRESIDENT: Bring him into the courtroom,
15 Mr. Carr.

16 MR. COMYNS CARR: Would you gentlemen stand
17 forward, please? Come forward here, Mr. Kildoyle, will
18 you please and turn towards the witness.

19 (Whereupon, Mr. Kildoyle and two
20 other men approached the center of the floor
21 and faced the witness.)

22 Q Do you remember this gentlemen, General? He
23 was in army uniform when you saw him.

24 A I think I have seen him before.

25 Q He interpreted at your interrogations on no

ARAKI

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1 less than eight occasions; don't you remember that?
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1 sure that this Tribunal wants to elicit the true
2 facts, and I sincerely hope that possibly you might
3 get answers if the questions are understood by the
4 witnesses. That is all I am trying to do right now:
5 Does the witness understand the question?

6 THE PRESIDENT: As the transcript will show,
7 the question was perfectly clear. It was not capable
8 of being misunderstood.

9 I have appeals from my colleagues to discipline
10 you, Mr. McManus. I can assure you not one is with
11 you in this. Counsel forget, when they behave this
12 way, that the transcript will be the best answer to
13 them if any question arises.

14 THE WITNESS: There seems to have been some
15 confusion with regard to the last question, and so if
16 I should state the point clearly I will say this,
17 that the development of Manchukuo in accordance with
18 the principle of the Kingly Way for the creation of a
19 peaceful state was not directed in the proper direction.
20 That is all.

21 Q Only one other question I will ask you about
22 that. Whom do you blame for that state of affairs?

23 A That is not for me to answer. It is not for
24 me to answer that question because I am speaking of
25 matters after I left the office of War Minister and

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1 question" is not supported by the record. If prose-
2 cution had sought in February the ruling it now seeks
3 that evidence would have been presented in the general
4 phases and the general phases would have taken that
5 much more time. By failure of the prosecution to ob-
6 ject to the procedure at those various times the ac-
7 cused will have been lulled into a false sense of se-
8 curity if the order prayed for is granted.

9 At times the Tribunal has indicated that
10 general evidence would be more appropriate in the
11 individual phases. For example, on page 25,891 of
12 the record the following appears:

13 "THE PRESIDENT: The majority of the Tribunal
14 think that as this affidavit is contested by some of
15 the accused it should not be read in the general phase.
16 Therefore, the objection is sustained. It may be read
17 on behalf of those individuals who support it, of
18 course, subject to other objections that are open."

19 We also recall other instances where docu-
20 ments of a general nature were rejected with the
21 ruling that if it could be shown in the individual
22 cases that any of the accused relied on the matter
23 set forth in the documents offered it could then be
24 presented. In a number of instances, witnesses who
25 were called in the general phases were not examined

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: I notice one of the accused
4 is absent from the dock apart altogether from the
5 witness. I have not been notified of that.

6 LANGUAGE ARBITER (Major Moore): If the
7 Tribunal please, I offer the following language cor-
8 rections:

9 Record page 28,235, line 23, delete from
10 "state" to the end of the paragraph and substitute
11 "case it would be impossible to endure for a long
12 period of ten or twenty years."

13 THE PRESIDENT: The accused KAYA, with the
14 permission of the Tribunal, will be absent for the
15 first session today consulting with his counsel.

16 Mr. Comyns Carr.

17 - - -

18 S A D A O A R A K I, an accused, resumed the stand
19 and testified through Japanese interpreters as
20 follows:

21 CROSS-EXAMINATION

22 BY MR. COMYNS CARR (Continued):

23 Q General ARAKI, when the Tribunal adjourned
24 yesterday I had asked you what it was which caused you
25 to be dissatisfied with the state of affairs in

1 THE PRESIDENT: We will follow the conventional
2 course from which Mr. Carr has not yet departed.

3 MR. COMYNS CARR: The Tribunal may remember
4 that in the cross-examination of other witnesses,
5 particularly MINAMI, I and other counsel put a number
6 of questions which were vehemently objected to on
7 behalf of the defense because they asserted that, if
8 questions were being put, based upon any document, the
9 document should there and then be produced. The
10 Tribunal ruled that the questions could be put regard-
11 less of the source, if any, of the information, provided
12 they were otherwise proper questions, but intimated
13 that they would expect that at the proper time the
14 documents on which the questions were founded should
15 be offered in evidence.

16 THE PRESIDENT: Yes.

17 MR. COMYNS CARR: Having regard to the attitude
18 which the defense then adopted, I am offering now to
19 produce here and now the documents on which my questions
20 are going to be based, if either the Tribunal or the
21 defense desire to see them at this stage. But, if it
22 is preferred that they should be reserved until tendered
23 in rebuttal, if they are tendered, if it is necessary
24 to tender them, then, of course, I do not press the
25 offer.

1 what ARAKI's thoughts were, but also his attitude at
2 the time of the China Incident and at the time of the
3 Pacific War.

4 THE PRESIDENT: Well, now, it is a short
5 question. According to this affidavit, the accused
6 ARAKI advised the Niseis in America to be loyal to
7 America. And ARAKI, according to the witness, never
8 attempted any justification of the war between America
9 and Japan. What relevance has that?

10 Now, we do not want a long statement about
11 nothing in particular. Give us a reply to that.

12 MR. SUGAWARA: The fundamental principles
13 underlying ARAKI's ideas can be found in his address
14 to the Niseis telling them to be loyal to America. And
15 also this witness shows that ARAKI bent every effort,
16 vis-a-vis America, so that the Japanese-American con-
17 flict would not break out.

18 THE PRESIDENT: By a majority the objection
19 is sustained and the document rejected.

20 (Whereupon, the witness was excused.)

21 MR. SUGAWARA: Mr. McManus will continue with
22 the presentation of evidence.

23 THE PRESIDENT: Mr. McManus.

24 MR. McMANUS: At this time, if the Tribunal
25 pleases, I should like to offer defense document 573.

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MATSUMOTO

DIRECT

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This is a questionnaire or an interrogatory submitted

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1 that this item was taken from the newspapers comment-
2 ing on these two men and the report thus received
3 from the press was reported in this particular report.
4 DOHIHARA's name constantly appeared in the newspapers.
5 Furthermore, newspaper comments frequently reported
6 to the effect that DOHIHARA was engaged in conspira-
7 cies and various plots but, as a matter of fact, during
8 the years that I served under General DOHIHARA there
9 was not one iota of any evidence of his ever partici-
10 pating in such movements.

11 THE PRESIDENT: We do not want this witness
12 to digress to that extent. I notice that this docu-
13 ment has attached a certificate of source and authen-
14 ticity and it could have been tendered direct and
15 would be admitted subject to its having probative
16 value.

17 JUDGE NYI: Your Honor--

18 THE PRESIDENT: We will take it as tendered
19 with that certificate. The only question is, what
20 probative value has it, and if it has any, is it
21 properly translated. We can only refer it if we
22 decide to admit it.

23 IR. WARREN: Your Honor, in view of this
24 witness' explanation as to what these items are we
25 feel it has lost probative value, but if the Court

1 of the affidavit. But, what is the purpose of the
2 cross-examination?

3 JUDGE NYI: Your Honor, in our submission,
4 this has a very close relation to the activities of
5 the accused DOHIHARA, and they were both in Tokyo at
6 that time.

7 THE PRESIDENT: Is that your reason? That
8 doesn't appear to be sufficient. There may be another.
9 The NAKAMURA case played some part.

10 As I am reminded, it is one of three hundred
11 matters that is supposed to have been causing trouble
12 between China and Japan, but the prosecution gave it
13 very little attention. It is also dealt with, I am
14 reminded, in the Lytton report.

15 What can this witness add? What can he do
16 except waste time.

17 JUDGE NYI: Your Honor, this witness said
18 that he had a talk with DOHIHARA in Tokyo, and we
19 might get from this witness what were the views of
20 DOHIHARA in this case, and which were not in the
21 Lytton report.

22 THE PRESIDENT: If we are going into all
23 these details at this length, we will never finish.

24 JUDGE NYI: May it please your Honor, we will
25 drop this point.

1 A Yes, that is so.

2 Q And, did they not capture Ichang?

3 THE MONITOR: What province?

4 MR. SUTTON: I-c-h-a-n-g.

5 A Yes.

6 Q And, did not the troops under his command,
7 during 1942 and '43 and '44, in China, capture Lung-
8 ling, Tunchung, Changteh, Chinchow, Loyang, Changsha,
9 the capital of Hunan Province, Hengyang, Kweilin, and
10 Liuchow?

11 A Yes, just as you stated in your question, these
12 places were captured.

13 MR. SUTTON: May it please the Tribunal, with
14 regard to that portion of this affidavit which deals
15 with the treatment of prisoners of war in China,
16 questions and answers 14, 15, and 16, the prosecution
17 respectfully draws the attention of the Tribunal to
18 the following portions of the evidence concerning the
19 treatment of prisoners of war in those portions of
20 China under General HATA's command:

21 As to Hong Kong and that vicinity, exhibits
22 1590 to 1608 inclusive, record 13,162 to 13,185, and
23 the testimony of Barnett, record 13,112 to 13,147;

24 As to Shanghai and other parts of China, the
25 following exhibits: exhibits 1888 to 1896 inclusive,

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1 THE PRESIDENT: You are not likely to finish
2 the presentation of your evidence today, apart from
3 ARITA, or tomorrow, perhaps.

4 MR. YAMAOKA: I understand, if your Honors
5 please, that Mr. OKAMOTO desires to conduct cross-
6 examination on behalf of General MINAMI.

7 THE PRESIDENT: Mr. OKAMOTO.

8 - - -

9 K A Z U E K U W A S H I M A, recalled as a witness
10 on behalf of the defense, resumed the stand and
11 testified through Japanese interpreters as
12 follows:

13 CROSS-EXAMINATION (Continued)

14 BY MR. T. OKAMOTO:

15 Q Did the witness visit Manchuria or China in
16 1935?

17 A According to my recollection, it was in 1936
18 that I made this visit.

19 Q Did you not in 1935?

20 A According to my recollection, it was in 1936.

21 Q Who was the Japanese Ambassador to Manchuria
22 in 1935?

23 A According to my recollection, it was General
24 MINAMI that was Ambassador in 1935.

25 Q Was General MINAMI, as Ambassador, under the

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24 MINAMI that was Ambassador in 1935.

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KUWASHIMA

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1 supervision of the Foreign Minister?

2 A Yes, as you say.

3 Q You were the Director of the Bureau of East
4 Asiatic Affairs at that time, were you not?

5 A Yes, I was.
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1 MR. YAMAOKA: We offer in evidence defense
2 document 2153. This is an answer of Foreign Minister
3 HIROTA to a question in the House of Representatives
4 at the 67th Session of the Imperial Diet, on
5 February 21, 1935.

6 I only intend to read from the sentence
7 beginning at the latter part of the page, "I think,"
8 to the end.

9 THE PRESIDENT: Mr. Brown.

10 MR. BROWN: Your Honor, the prosecution
11 objects to this document as repetitive, and also on
12 the ground that the part which my learned friend
13 proposed to read is entirely opinion.

14 THE PRESIDENT: There was less than a month
15 between the speech just rejected and this, and they
16 all have the same tenor, to say the least.

17 MR. YAMAOKA: If the Tribunal please, I do
18 not believe that Mr. HIROTA in his prior speeches
19 mentions the points that I intend to read here, and
20 as for opinion, why, this is the statement of the
21 accused himself, given in answer to an interpellation
22 in the Diet.

23 Our purpose in introducing documents of this
24 type, which your Honors have no doubt noticed on the
25 order of proof, is to show the consistency of Mr.

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25 order of proof, is to show the consistency of Mr.

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1 Have you anything to say?

2 MR. YAMAOKA: If the Tribunal please, in our
3 submission, this document meets the issues raised by
4 the prosecution that Japan was conducted along, that
5 the country was conducted along totalitarian lines in
6 furtherance of the conspiracy charged in the Indictment

7 THE PRESIDENT: As such it is an attempt to
8 swear the issue. I realize relevant issued are the
9 counts and not the particulars supporting.

10 MR. YAMAOKA: Furthermore, the prosecution
11 has also charged that the relationship between Japan
12 and Germany was one in furtherance of a conspiracy to
13 dominate the world. In our submission, this document
14 does disclose that that relationship was not carried
15 out to the extent contended by the prosecution. It
16 was, furthermore, a contemporary document and shows Mr.
17 HIROTA's views on this subject.

18 THE PRESIDENT: By a majority the objection
19 sustained and the document rejected.

20 MR. YAMAOKA: If the Tribunal please, Mr.
21 HANAI will present the next witness.

22 THE PRESIDENT: Mr. HANAI.

23 MR. HANAI: May the witness INO, Hiroya be
24 called.
25

- - -

AFTERNOON SESSION

1
2 The Tribunal met, pursuant to recess, at 1330.

3 MARSHAL OF THE COURT: The International Mili-
4 tary Tribunal for the Far East is now resumed.
5

6 - - -

7 H I R O Y A I N O, called as a witness on behalf
8 of the defense, resumed the stand and testified
9 through Japanese interpreters as follows:

10 THE PRESIDENT: Mr. Yamaoka.

11 MR. YAMAOKA: If the Tribunal please, my asso-
12 ciate, Mr. HANAI, is handling this witness.

13 THE PRESIDENT: Mr. HANAI.

14 MR. HANAI: I should like to conduct a brief
15 cross-examination.

REDIRECT EXAMINATION

16
17 BY MR. HANAI:

18 Q Was there ever an occasion when a document
19 went direct to the president of the Bureau of Planning
20 without first passing through your office, that of the
21 vice-president, in relation to documents and plans such
22 as the Five-Year Plan?

23 MR. COMYNS CARR: I object to that question.
24 It does not arise out of cross-examination. The only
25 matter on which I cross-examined was whether HIROTA was

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The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

- - -

HIROYA INO, called as a witness on behalf of the defense, resumed the stand and testified through Japanese interpreters as follows:

THE PRESIDENT: Mr. Yamaoka.

MR. YAMAOKA: If the Tribunal please, my associate, Mr. HANAI, is handling this witness.

THE PRESIDENT: Mr. HANAI.

MR. HANAI: I should like to conduct a brief cross-examination.

REDIRECT EXAMINATION

BY MR. HANAI:

Q Was there ever an occasion when a document went direct to the president of the Bureau of Planning without first passing through your office, that of the vice-president, in relation to documents and plans such as the Five-Year Plan?

MR. COMYNS CARR: I object to that question. It does not arise out of cross-examination. The only matter on which I cross-examined was whether HIROTA was

1 appointed vice-premier at the same time that he was
2 appointed president of the Planning Bureau.

3 MR. HANAI: I should like to get the Court's
4 permission to put my question.
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REDIRECT

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1 As to the objections to paragraph numbered
2 15, the sentences relative to Japanese public opinion,
3 although the word opinion is used, this, I do not
4 believe, is a statement of opinion by the witness.

5 THE PRESIDENT: That is not the objection.
6 The objection is that it is too much for any one man
7 to say and it certainly does involve an opinion
8 on the part of the person expressing the opinion.
9 However, if public opinion could be relevant, I do
10 not know how else you could establish it.

11 MR. YAMAOKA, I was going to add, if your
12 Honor please, that this public opinion is naturally
13 a matter of vital concern to men in public office
14 because they rely upon it and act upon it, while
15 admittedly it may be difficult of ascertaining.

16 As to the objection in paragraph 18, I
17 believe that my point just discussed covers this
18 matter.

19 I believe that covers the principal points
20 of the objections.

21 THE PRESIDENT: By a majority the Court
22 sustains the objections and admits the document to the
23 extent not objected to, on the usual terms.

24 CLERK OF THE COURT: Defense document 2146
25 will receive exhibit No. 3260.

1 theories and the like for the facility of this Court
2 which is burdened with such a great, grave problem.

3 THE PRESIDENT: The United States practice
4 is also the Australian practice. The decision of
5 July last year was based on the United States practice
6 and on the Australian practice. The decision was re-
7 peated again only a week ago by me on an objection by
8 Mr. Brown of the British prosecution. Since I repeated
9 that decision on Mr. Brown's objection, at least two
10 Members, I think, if not three Members of the Tribunal,
11 have made suggestions that they are going to be bound by
12 or to consider only what is read into the transcript
13 and I told the counsel on both sides of that as soon
14 as the opportunity arose. From two of the Members I
15 have received written notes to that effect. One I
16 received only this morning as you were addressing me,
17 Mr. Chief of Counsel.

18 I have no intention of telling you what any
19 Member has written or said to me without his consent
20 but I may read what one Member has just written: "The
21 parts of documents not read by the attorney presenting
22 them should not be considered in evidence."

23 I read what another Member has written to me
24 this morning: "If, when a document is admitted, the
25 whole of the document forms part of the evidence, why

the majority.

1 MR. CUNNINGHAM: There is no question about
2 that. But after you have admitted it, what the Court
3 considers has been admitted is the question here.
4

5 Now, the third observation is, your Honor,
6 there have been a great many documents admitted in
7 this Tribunal that have not been read. They have been
8 referred to and they have been considered or not
9 considered evidence by some Members of the Tribunal.
10 It is very difficult to determine from down here what,
11 up there, is considered evidence.

12 In my case, I have read many of the vital
13 parts of documents and have left the minor or detailed
14 parts for the perusal of the Tribunal at its leisure,
15 or for reference in summation, or to use in any manner
16 in which I see fit, after it has been admitted.

17 THE PRESIDENT: You are not one of the
18 alleged minority, Mr. Cunningham. We would like to
19 hear the minority, the people who think that, after
20 all, only what is read into the transcript is evidence.

21 However, I don't want to curtail you ob-
22 servations yet.
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: -- review the decision of the
4 Tribunal given in July 1946 and repeated recently. If
5 the whole of a document has been tendered in evidence,
6 but only part has been read, it will be open to any
7 counsel on summation to refer to unread parts, if
8 necessary or desirable in his viewpoint.

9 OFFICIAL COURT REPORTER: Mr. President, the
10 first few words of your statement didn't come over the
11 IBM.

12 THE PRESIDENT: No Member of the Tribunal
13 desires to review the decision of the Tribunal given
14 in July 1946 and repeated recently. If the whole of a
15 document has been tendered and received in evidence,
16 but only part has been read, the unread part may be
17 referred to in summation, if necessary or desirable
18 in the view of the particular counsel.

19 MR. LOGAN: Well, if the Tribunal please, I
20 think that still leaves the question unanswered. I
21 understood fully the Tribunal's decision as a whole,
22 but how about those two Judges; are they still going
23 to exclude evidence which is not read into the trans-
24 cript? I think that is important for all of us to know.
25

 THE PRESIDENT: The two Judges referred to are

1 document like this or subsequently to refer it to
2 him, is it not?

3 A Yes, as you say.

4 Q Have you any reason to doubt that you fol-
5 lowed the usual practice in this case?

6 A I have no exact recollection.

7 Q And you have no reason to doubt that you
8 followed your usual practice.

9 A No.

10 Q Now, referring to the document 1973 where
11 it was stated the Government-General and the Army are
12 both strongly desirous of having the prisoners in
13 Korea, did you take any steps to bring before the
14 Government-General the reactions of the people to
15 the arrival of these prisoners?

16 A No, we didn't.

17 Q Why didn't you?

18 A Because it was not our duty to report to
19 the Government-General.

20 Q But in a telegram sent by your predecessor
21 you have stated to the Vice-Minister of War that the
22 Government-General is very desirous that prisoners
23 should be taken to Korea.

24 A Since, when I assumed my post, my predeces-
25 sor did not tell me anything in regard to this tele-

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

2 A (Continuing) May I ask you again, the docu-
3 ment I have received is 1579, not 1975.

4 COLONEL MORNANE: 1975 it should be, 1975.
5 The witness says he has received 1579, not 1975.

6 Q Was that the first document to which I re-
7 ferred you, witness?

8 A Is the title of that "Recollections Among
9 the General Public Following Internment of British
10 POW's"?

11 Q That is right.

12 A I am afraid I do not recollect whether or
13 not I showed this report to the commander-in-chief.

14 Q You knew from previous correspondence the
15 very purpose for which he wanted prisoners of war
16 sent to Korea was shown to have been partially
17 achieved in these reports.

18 A This report, as I have stated in my affi-
19 davit, is a compilation of the reactions of the
20 general public towards the prisoners of war taken in
21 Malaya and elsewhere and interned. We did not write
22 this report necessarily with the -- we did not compile
23 this report calling attention to the purport given
24 in the first part of the previous document.

25 Q Witness, your usual practice is to have the
approval of the commander-in-chief when you send a

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corresponding pages in the record.

1 Q Does it say, did it read that: "According
2 to the object described in separate telegram,
3 Kwantung Staff I, Telegram 762, we decided to con-
4 centrate a part of the forces outside the Great Wall
5 in order to suitably cooperate with the China Garrison
6 Army in case of need and issued orders at noon today,
7 the 12th, to take the following measures:"

8 Did it continue that: "The First Independ-
9 ent Infantry Regiment, one light tank company of the
10 Third Tank Battalion, one battalion of the 9th
11 Heavy Field Artillery Regiment and the First Inde-
12 pendent Engineer Company shall be placed under the
13 command of the Commander of the First Mixed Brigade
14 and shall be made to concentrate the forces near
15 Shanhaikwan by November 15 so as to be prepared for
16 advancing into North China. However, as to advancing
17 to the south of Shanhaikwan, same shall depend on
18 army orders."

19 Did it read that way?

20 A Yes, just as you say.

21 JUDGE NYI: Your Honor, we tender this in
22 evidence, IPS document 644-C.

23 MR. BROOKS: If your Honor please, I would
24 like to have the parent document, the Manchurian
25 Secret Diary, marked for identification, from which

1 MR. BROOKS: My point, your Honor, was aimed
2 at its being of little probative value because of the
3 issues in the case, and the relevance of it to the main
4 issues is very insignificant.

5 THE PRESIDENT: A question is raised by a
6 Member of the Tribunal as to the extent to which
7 documents admitted against one accused can be used
8 against all. If a document is tendered against all the
9 accused and counsel for one accused shows clearly that
10 it has no application to his client or has no probative
11 value at all, but other counsel raise no objection, I
12 do not see how we can fail to consider the objection on
13 its merits.

14 The prosecution succeeded in establishing this
15 morning through this witness, and they were bound by the
16 witness, by what the witness said, for the time being,
17 that these accounts related only to Japanese-administered
18 railways. If we had decided that document was evidence
19 against MINAMI, who objected to it, we would have given
20 a wrong decision. But it was not objected to by other
21 accused, and it was admitted against them because the
22 Court does not take objections to evidence on those
23 grounds, not yet. If evidence tendered against one ac-
24 cused is in fact evidence against all of them, and there
25 is no objection from others, of course it goes in against

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25 is no objection from others, of course it goes in against

1 A I believe you will find it in the affidavit,
2 but a man called FURUNO, Inosuke, visited me at the
3 battle front about one month previously and talked with
4 me on various subjects. He stayed there three days.

5 Q You are not answering my question. You are
6 talking about how your invitation came from KONOYE.
7 Let me ask you a simpler question. Who, if any,
8 recommended you to KONOYE for this post?

9 A I don't know.

10 Q Was it not ISHIHARA?

11 A ISHIHARA had no reason to engage in such
12 political activities. I know nothing about it.

13 Q Was it not KIDO?

14 A I don't know.

15 Q When you assumed office as War Minister, who
16 was the Vice War Minister?

17 A The Vice-Minister had just been changed. It
18 was then Lieutenant-General TOJO.

19 Q Did you pick up TOJO?

20 A No, not so. My consent was asked for later.

21 Q Was it a fact that he came to the office of
22 War Minister before you did?

23 THE MONITOR: Will you repeat the question,
24 please, Judge Nyi?

25 Q I asked: Was it a fact that TOJO came in

1 accused person, I think that you should have no ar-
2 rangement with him to read anything except as a wit-
3 ness here in the box. You should be able to judge at a
4 glance whether there are records of the meeting that
5 he attended as one of those five persons.

6 BY JUDGE NYI (Continued):

7 Q As a member of the Five Ministers' Conference,
8 could you recognize that these were the decisions
9 reached by the Five Ministers' Conference?

10 A No, I cannot.

11 THE PRESIDENT: Would you be influenced if
12 you were satisfied the government certified to those
13 records as minutes of the meetings of those ministers?

14 THE WITNESS: As I stated before, no records
15 or minutes were kept of these meetings, and I cannot
16 say with responsibility that these are records of
17 that meeting. And, if it should turn out that there
18 were records or minutes taken, I cannot be responsible
19 for that.

20 THE PRESIDENT: That is not the question I
21 asked.

22 THE MONITOR: Japanese court reporter!

23 (Whereupon, the Japanese court
24 reporter read.)

25 THE MONITOR: The interpretation of the last

1 was, if the affidavit was presented to this witness,
2 would he accept it, and that is asking him to certify
3 to the certificate. That is what I am objecting to,
4 if your Honor please.

5 THE PRESIDENT: I asked him whether he ad-
6 mitted the certificate was what it purported to be,
7 and any witness can make an admission. The question
8 might have been put on a letter, and there would
9 have been no doubt about it. But since he cannot
10 read English, it is useless to pursue this further.
11 That means the documents cannot be admitted at this
12 stage. We have not sufficient material on which to
13 admit them.

14 JUDGE NYI: We will question him.

15 THE PRESIDENT: We will adjourn until half-
16 past one.

17 (Whereupon, at 1200, a recess
18 was taken.)

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1 MARSHAL OF THE COURT: The International Mili-
2 tary Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Captain Kraft.

4 LANGUAGE ARBITER (CAPTAIN KRAFT): If the
5 Tribunal please, we submit that IPS document No. 1632,
6 exhibit No. 3341, record pages 31,392-3, lines 4-2 on
7 the second page, is in substance an acceptable transla-
8 tion of the KIDO Diary of 12 December 1938.

9 Reference, prosecution exhibit No. 1135,
10 KIDO's Diary of 6 September 1941, record page 10,216,
11 line 3, delete "only." The sentence should read,
12 "The Emperor should give a warning," etc.

13 THE PRESIDENT: Captain Kraft, if you will
14 give a copy of these language corrections to the Lan-
15 guage Section we will get a simultaneous translation.

16 Mr. Chief of Counsel.

17 BY MR. KEENAN (Continued):

18 Q The voice was a pretty powerful one, wasn't it?

19 A In any event there were hostilities going on;
20 so the voice was strong.

21 Q Well, isn't it the truth that the Prime Minis-
22 ter of Japan, KONOYE, in December of 1937, was actually
23 in the position where he had to find out from the High
24 Command what terms of peace he really could offer to
25 Chiang Kai-shek?

NOTE:

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and should be substituted for the
corresponding pages in the record.

1 of this witness, the prosecution consents to his
2 affidavit being read.

3 MR. HOWARD: Beginning at paragraph 1 --

4 THE PRESIDENT: It is not tendered.

5 I take it, it is tendered. It is admitted
6 on the usual terms.

7 CLERK OF THE COURT: Defense document 495
8 will receive exhibit No. 3351.
9

10 (Whereupon, the document above
11 referred to was marked defense exhibit
12 No. 3351 and received in evidence.)
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1 documents addressed to the Vice-Minister of War?

2 COLONEL MORNANE: If the Tribunal pleases,
3 I object to this as not arising out of examination
4 in chief.

5 THE PRESIDENT: How does it arise?

6 MR. HOWARD: The document that he just read
7 in evidence was addressed to the Vice-Minister.

8 THE PRESIDENT: Well, that does not make that
9 question admissible. Objection allowed.

10 MR. HOWARD: May the witness be excused on
11 the usual terms?

12 THE PRESIDENT: He is excused accordingly.

13 (Whereupon the witness was
14 excused.)

15 MR. HOWARD: That concludes the individual
16 phase of KIMURA.

17 THE PRESIDENT: I understand the Russian
18 witnesses for cross-examination are now available.

19 COLONEL IVANOV: I now call the witness
20 TAKEBE, Rokuzo.

21 THE PRESIDENT: Colonel Ivanov, at this
22 stage all you can do is call the witness for cross-
23 examination by the defense. Do you propose to do any
24 more than that?
25

TAKEBE

CROSS

31,849

position of Chief of General Affairs?

1 A At the time I assumed the post of Chief of
2 the General Affairs Board of Manchukuo, the talk with
3 regard to my possible assumption of that office was
4 brought to me by one, YUZAWA, Michio, who came as a
5 representative of General UMEZU.
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TAKEBE

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1 Q Was YUZAWA, Michio a military man?

2 A No, not a military man.

3 Q Home Ministry man, wasn't he?

4 A Yes, an official of the Home Ministry

5 Q What did he tell you when he came to you?

6 A It was an oral request made to me, asking me
7 to take over the post as Chief of the General Affairs
8 of the Manchukuo Government, which request I accepted.

9 Q Did Mr. YUZAWA tell you how General UMEZU
10 came to select you?

11 A No, I didn't.

12 Q Did he tell you that you were selected by
13 General UMEZU on the recommendation of himself, Mr.
14 YUZAWA?

15 A No, he did not say anything in particular.

16 Q Had you ever worked for General UMEZU before
17 that time?

18 A No.

19 Q Prior to the time you became Chief of General
20 Affairs in July 1940, when were you last in Manchuria?

21 A From January 1935 to April 1938 I was in the
22 service of the Kwantung Government General in Hsinking,
23 and therefore the last time I was in Manchukuo was
24 April 1938.

25 Q And from April 1938 until July 1940 you were not

1 THE PRESIDENT: Oh, Colonel Ivanov, you must not
2 interrupt. I put the question to the witness and he must
3 answer it.

4 (To the Witness) Can you answer yes or no the
5 question that has just been read to you by the court
6 reporter?

7 THE WITNESS: I shall reply.

8 THE PRESIDENT: Do so.

9 THE WITNESS: General UMEZU made it his duty
10 to maintain defense, and I should like to add my explan-
11 ation.

12 MR. BLAKENEY: Well, I think you have already
13 added it.

14 THE PRESIDENT: If you don't want the explanati-
15 on you need not press it. We can regard the question as one
16 he refuses to answer under the circumstances because
17 he hasn't expressed any inability to answer.

18 MR. BLAKENEY: I don't wish any further answer.
19 I think the answer given speaks for itself.

20 Q Now, sometime earlier you started to speak of
21 Kan-Toku-en, that is, the Kwantung Army special maneuver.

22 COLONEL IVANOV: As far as I understand, the
23 Tribunal permitted the witness not only to answer the
24 question but also to give his explanation, not only to
25 answer yes or no, and I consider the defense has no right

MATSUURA

CROSS

1 A No, that does not follow.

2 Q Have you told us now all that the Mongolia
3 Occupation Army did in the way of preparations accord-
4 ing to the Kantokuen?

5 A I can't understand the meaning of your question.
6 May I have it repeated?

7 Q The meaning of my question is, have you now
8 told to the Tribunal all of the things which you spoke
9 of in your affidavit as being preparations made by the
10 Mongolia Stationary Army according to the Kantokuen
11 Plan for attack against the U.S.S.R.?

12 COLONEL IVANOV: Your Honor, in reply to the
13 question asked by the defense counsel, the witness has
14 quite positively stated that the Kantokuen plan had
15 no connection whatsoever with the measures taken by
16 the Japanese Army in Inner Mongolia. However, the
17 defense counsel, in formulating his question, is
18 persistently pointing out that the measures taken in
19 Inner Mongolia were conducted under the Kantokuen Plan.
20

21 I do not know whether such questions are
22 admissible in an international court, but in our Soviet
23 courts such questions are inadmissible, both with
24 regard to the examination of the accused and examina-
25 tion of the witnesses.

MR. BLAKENEY: I have been very careful to use

MATSUURA

CROSS

1 Army for liaison purposes?

2 A Yes.

3 Q And, you knew those facts by reason of
4 having deciphered the message announcing his impend-
5 ing arrival?

6 A Yes, as you say.

7 Q And, he did come, didn't he?

8 A Yes.

9 Q And, he had a meeting with the commander of
10 the Mongolian Army?

11 A Yes.

12 Q You, however, weren't present at the meeting?

13 A Of course not.

14 Q You didn't know what was said or talked
15 about at the meeting?

16 A Of course I didn't.

17 Q In fact, this time you weren't even told by
18 any captain what they talked about, were you?

19 A No.

20 Q But, you assume that it had to do with plans
21 for aggression against the U.S.S.R., don't you?

22 A I gained the impression from the war situ-
23 ation between Germany and Russia and also from the
24 general atmosphere then prevailing.

25 Q And, that is one of the facts from which you

designed to attack his credibility.

1 THE PRESIDENT: Some of my colleagues have the
2 view that you are really arguing with the witness,
3 Major Blakeney.

4 MR. BLAKENEY: If it is argument to ask him
5 to explain a patent contradiction, sir, perhaps I am.

6 THE PRESIDENT: If he contradicts himself
7 you may well leave the cross-examination pass. Ordina-
8 rarily, counsel getting a contradiction would stop
9 cross-examination at that point unless he wanted to
10 be very fair to the witness. If that is your purpose
11 you may insist on an answer and the question will be
12 allowed.
13

14 MR. BLAKENEY: I might say that that has not
15 been the practice in the jurisdictions with which I
16 am familiar and which, therefore, is the only practice
17 that I know. But I will leave that matter.

18 Q Did this Colonel ONO, the chief signal officer,
19 did he attend staff conferences of the Kwantung Army
20 relating to operations plans, operations matters?

21 A Naturally he has attended them.

22 Q Regularly?

23 A Yes.

24 Q Did the chief of the cipher section attend
25 them?

NOTE:

The attached pages are corrected pages
and should be substituted for the
corresponding pages in the record.

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1 Q What was the approximate strength of the
2 Soviet forces in the Far East at the beginning of the
3 winter of 1943?

4 COLONEL IVANOV: This is repetitive and
5 outside of the scope of his affidavit.

6 MR. BLAKENEY: It has never been mentioned
7 before, and if you will look on page 6 of the affi-
8 davit, end of paragraph 4, you will find some com-
9 parison of the strength of the two armies.

10 THE PRESIDENT: Objection overruled.

11 A I, myself, have no sufficient knowledge as
12 to the strength of the Soviet forces at that time.

13 Q Witness, you know very well, don't you, that
14 the decision to wage war is one that is not made by
15 captains and majors and cryptographic clerks? It is
16 not made by the Kwantung Army; it is not made even by
17 the Imperial General Headquarters; but it is made as
18 a matter of national policy on a much higher plane.

19 COLONEL IVANOV: The Court repeatedly drew
20 attention of the parties not to make long preliminary
21 statements to the questions. Besides, this question
22 is of no purpose in connection with this witness.

23 THE PRESIDENT: Objections upheld.

24 Q And if any such national policy was ever
25 decided it was never confided to you by anyone

1 COLONEL IVANOV: May the witness be shown
2 exhibit 722?

3 (Whereupon, a document was handed
4 to the witness.)

5 Q Is that your affidavit and did you sign it?

6 A Yes.

7 Q Are the contents thereof true and correct?

8 A Yes, true and correct.

9 Q Did you give your testimony truthfully and
10 without any duress?

11 A I wrote this from my own conscience, volun-
12 tarily.

13 COLONEL IVANOV: If the Tribunal please,
14 separate excerpts from exhibit 722 have been read in
15 court, and they are at page 7,575 of the record.
16 With the Tribunal's permission, I shall read one
17 question and one answer from exhibit 722, which were
18 from the affidavit of MURAKAMI, which haven't been
19 read before. It is at the bottom of page 3 of the
20 English text and at the top of page 4 of the same
21 text:
22

23 "Q. What were the tasks of the Research
24 Institute of Total Mobilization in 1943?

25 "A. First, we were interested in the maxi-
mum increase of the production of aircraft and

1 that was so -- that it may have been that number.

2 Q And after 1944 no student was admitted and
3 the activities of the Institute ceased, is that correct?

4 A Yes, you are right.

5 MR. BLEWETT: That is all, your Honor, thank you

6 THE PRESIDENT: Apparently there is no further
7 cross-examination.

8 Colonel Ivanov.

9 REDIRECT EXAMINATION

10 BY COLONEL IVANOV.

11 Q I ask that the witness be shown exhibits 690
12 and 688-A.

13 (Whereupon, two documents were
14 handed to the witness.)

15 Q Witness, will you take a glance at these
16 documents and tell us which of these studies were
17 made under the instruction of TOJO?

18 A What General TOJO requested was a study of
19 what I have in my hand, this document; and his request
20 was that a general study be made as to the administration
21 of occupied areas.

22 Q Will you name the number of this exhibit?
23 It appears on the cover of the book.

24 A Well, there are two numbers on this document:
25 1355 and 690.

1 Q This is exhibit 690.

2 THE PRESIDENT: A?

3 Q Tell us, witness, to which document was the
4 counsel for the accused TOJO referring in his cross-
5 examination, which of these documents that you have
6 now before you?

7 A Well, I don't exactly understand the meaning
8 of the question, but I don't think that the counsel for
9 His Excellency TOJO asked me any question in connection
10 with this book, or this document.

11 Q So, did I understand you correctly that you
12 stated here that the counsel for the accused TOJO did
13 not ask you a single question concerning the document
14 which was worked out in accordance with instructions by
15 the accused TOJO?

16 A That is how I think.

17 Q Will you tell us what part was played by the
18 lectures on the spiritual education of the students, and
19 what part was played by the research work which was
20 carried out under your guidance?

21 A Well, there is this question of proportion or
22 ratio between spirit and matter, and the question of the
23 national concept of the Japanese State was undertaken
24 as a spiritual study and from a spiritual angle; but
25 from the point of view of quantity, I should say that
much work was done, that is, there were more studies

1 so far as quantity was concerned.

2 THE PRESIDENT: We will adjourn until half
3 past nine tomorrow morning.

4 (Whereupon, at 1600, an adjournment
5 was taken until Thursday, 30 October 1947 at
6 0930.)
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1 MR. FURNESS: I ask that the map as marked
2 by the witness be given an exhibit number for
3 identification.

4 THE PRESIDENT: You can tender it finally,
5 if I understand the position correctly, but you want
6 it for identification.

7 MR. FURNESS: I want to see it first, your
8 Honor, and I plan to have other marks made on it.

9 THE PRESIDENT: Well, what I tell you is
10 the ordinary rule, and my Colleagues take that view,
11 too. But, for the time being, you can tender it for
12 identification, but the other side can insist on it
13 being tendered finally.

14 COLONEL SMIRNOV: Your Honor, as my colleague
15 has started the cross-examination in the manner of a
16 quizz, and as I don't want that the tests put to the
17 witness be kept in secret, I ask that the map be
18 tendered in evidence.

19 THE PRESIDENT: Well, it must go in, so mark
20 it finally.

21 MR. FURNESS: Mark it finally. I have no
22 objection.

23 CLERK OF THE COURT: Photostatic copy of
24 original tracing of map, which is exhibit 2175, will
25 receive exhibit No. 3373.

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

1 (Whereupon, the document above
2 referred to was marked defense exhibit
3 No. 3373 and received in evidence.)

4 THE PRESIDENT: We will recess for fifteen
5 minutes.

6 (Whereupon, at 1045, a recess was
7 taken until 1100, after which the proceed-
8 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International Mili-
2 tary Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Major Furness.

4 MR. FURNESS: If the Court please, I believe
5 that the paper which the witness marked was a photostat
6 of the tracing, that is, exhibit 3373. I also have the
7 original tracing which has attached to it a certificate
8 of an expert drawer of maps which perhaps should be
9 offered now to give it further authenticity as to its
10 accuracy.

11 THE PRESIDENT: Do you tender it, then?

12 MR. FURNESS: I will now offer it.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Original tracing of map,
15 which is exhibit No. 2175, will receive exhibit
16 No. 3373-A.

17
18 (Whereupon, the document above
19 referred to was marked defense exhibit No.
20 3373-A and received in evidence.)

21 BY MR. FURNESS (Continued):

22 Q Now, would you mark on that map, for the
23 Court's benefit, the one that you marked in red pencil,
24 the hill Zaozernaya and the hill that you refer to in
25 your affidavit as Bezjimjannaya? Mark Zaozernaya with
a "Z" and Bezjimjannaya with a "B".

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AFTERNOON SESSION

1
2 The Tribunal met, pursuant to recess, at 1330.

3 MARSHAL OF THE COURT: The International
4 Military Tribunal for the Far East is now resumed.

5 THE PRESIDENT: With the Tribunal's permission
6 the accused OKA will be absent from the courtroom
7 for the whole of the afternoon session conferring with
8 his counsel.

9 Major Furness.
10

11 - - -

12 G I L F A N A. B A T A R S H I N, called as a
13 witness on behalf of the prosecution, resumed
14 the stand and testified through Russian inter-
15 preters as follows:

CROSS-EXAMINATION

16
17 MR. FURNESS: May I ask that the last question
18 and answer be read?

19 (Whereupon, the question and answer
20 were read by the official court reporter as
21 follows:)

22 "Q Where these guns were put and the troops
23 were concentrated.

24 "A The Japanese were concentrating their forces
25 around the Hamoka village -- in the Hamoka village

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

Col. Heddingham

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Khunchun. I want to know your opinion."

1 Do you know anything about this incident?

2 A Colonel Grebennik, commander of the detach-
3 ment, reported to me -- told me as an officer that
4 such an occurrence was somewhat to the north of the
5 Zaozernaya Hill.

6 THE RUSSIAN INTERPRETER: We spell the name
7 of the colonel, G-r-e-b-e-n-n-i-k.

8 Q Now, was this the same letter regarding which
9 you testified in your affidavit?

10 A This is the second letter.

11 Q But the gist of the letter which I have just
12 read to you is the same as the letter which you remem-
13 ber having been told about by this Grebennik?

14 A Yes, it is approximately so.

15 Q Now, did the Soviet frontier guards dig any
16 entrenchments, string any barb wire, or build any
17 other military fortifications in this area prior to
18 July 29?

19 A Prior to July 29 the border guards constructed
20 no fortifications there.

21 Q And there remained during that period only
22 30 border guards on that hill?

23 A Originally there were fewer border guards,
24 but since the 16th there were 30 border guards.
25

1 "13. In exhibit 227, I, as Vice-War Minister,
2 received an advice from the Chief of Staff of the
3 Kwantung Army dated June 4, 1932 with respect to the
4 taking over of the Dairen Customs, and I reported to
5 the War Minister about it. But as at this time the
6 government had not decided a policy concerning customs
7 and as it was a matter which could not be carried out
8 by the Army alone no action was taken thereon.

9 "14. I will now explain the use made of the
10 funds mentioned in exhibit 2210. The sum of 20,000
11 yen turned over to me as Vice Minister of War on 4
12 July, 1932, was handled under my supervision by the
13 Senior Adjutant of the War Ministry and the Secretar-
14 iat Pay-Master and was used to defray expenses for
15 social occasions held at the Minister's official resi-
16 dence and in the Ministry itself, for incidental ex-
17 penses of various bureaus and sections of the Minist-
18 ry and to pay persons employed temporarily.

19 "15. I was transferred to Chief of Staff
20 of the Kwantung Army on 8 August, 1932 and therefore
21 I turned the sum of 18,500 yen, given to me as Vice
22 War Minister, which is stated in Court exhibit 2211,
23 over to Lt. General YANAGAWA, Heis'ke, my successor
24 in office, and I do not know how it was used.
25

"16. The sum of 1,970,000 yen, turned over

from the USSR as well as certain other witnesses.

1 General Zaryanov contends that the three Russian
2 nationals must necessarily have included Budarin be-
3 cause there was no way of making up three without
4 him.

5 On the 17th of June an order was made in
6 open court for the production of all witnesses who
7 had not then been produced. That order was wide
8 enough to include Budarin if he were one of the
9 three Russian nationals. Later, the Chief Prosecu-
10 tor filed an application asking that the time for the
11 production of the witnesses be extended. In the
12 application he named Budarin among others. The ap-
13 plication came before me in Chambers on the 20th of
14 August. Major Furness and Major Blakeney were pre-
15 sent according to the record. I read the names of
16 the witnesses, including Budarin. General Vasiliev
17 also mentioned Budarin in his remarks. Major Blake-
18 ney spoke at considerable length, but nobody pointed
19 out that Budarin was not required, and the Chief
20 Prosecutor's application was granted in toto.
21

22 We will hear your reply after the recess.

23 We will recess for fifteen minutes.

24 MR. FURNESS: May I say that Major Blakeney
25 is not here; and, if his name was mentioned, it should

1 of the introduction into evidence of the documents,
2 respectively were the witnesses Batarshin and
3 Chernopyatko and the former Foreign Commissar Litvinov,
4 excerpts from whose diary were introduced in evidence
5 and whose production for cross-examination was requested
6 on page 7,718 of the record, that having been on the
7 14th of October, 1946. As I have said, however, in
8 presenting argument on the motion for production of
9 witnesses, I did specify by name those who were then
10 desired and I confined the argument to those who had
11 given affidavits and whom we desired. And in naming the
12 witnesses desired I named the two Soviet witnesses who
13 have already appeared within the past week, Batarshin
14 and Chernopyatko.

15 The order of the Tribunal was entered on the
16 17th of June at page 24,517 of the record. In that
17 order, after naming specifically five witnesses and
18 disposing of their peculiar cases on other grounds,
19 the Tribunal continued as follows: "That it orders" --
20 I am quoting -- "That it orders the prosecution to
21 produce for cross-examination the other witnesses
22 mentioned in the said defense motion."

23 As I have said, the witness Budarin was not
24 mentioned in the said defense motion. I, therefore,
25 have assumed then, as I assumed at all later times, that

1 the witness Budarin was not included within the tenor
2 of the order of the Tribunal. And, parenthetically,
3 the production of the witness Budarin was not requested
4 when his affidavit was produced, was tendered, which
5 I assume would be the only appropriate time for enter-
6 ing such a request.

7 Notwithstanding that the defense had and has
8 never requested the production of this witness, it now
9 appears that when the prosecution moved on the 19th of
10 August, or two days after the order of the Tribunal
11 of the 17th of June had by its terms become effective,
12 for an extension of time, it appears, I say, that the
13 name of the witness Budarin was included among those
14 for whom it was desired that an extension of time be
15 granted before their production. In Chambers it was
16 I who responded to the application and I can say only
17 that I gave no thought to the question of the addition
18 by the prosecution of the name of another witness than
19 those already requested by the defense. I thought then
20 and I think now that if the matter then being agitated
21 was of an extension of time within which to produce
22 witnesses requested by the defense, that the request of
23 the defense should govern in the matter of what witnesses
24 were under discussion.
25

I, therefore, submit to the Tribunal that not only

1 that MATSUI composed the poem in Nanking on New Years
2 Day.

3 MR. MATTICE: My copy reads "showed me."

4 THE PRESIDENT: He may have read it over in
5 Shanghai, certainly. That's clear now. So the wit-
6 ness says.

7 Q What occurred with respect to this poem in
8 Shanghai?

9 A What do you mean by that?

10 Q Well, what, if anything, occurred with re-
11 spect to the poem? How did you come to see it?

12 A On New Years Day, 1938, I made a courtesy
13 call on General MATSUI. It was customary for the
14 General to compose a poem on every New Years Day, and
15 on this particular occasion he showed me the poem he
16 had composed that morning.

17 THE PRESIDENT: Is he purporting to read from
18 his affidavit in Japanese?

19 THE WITNESS: No, I am not.

20 THE PRESIDENT: I think we should refer that
21 original affidavit in Japanese to the Language Section.

22 MR. MATTICE: I have an additional question
23 or two at this time.

24 Q Where did General MATSUI have his headquart-
25 ers before the fighting at Nanking began?

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

1 T A D A O Y O K O I, called as a witness on behalf
2 of the defense, being first duly sworn, testified
3 through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. SHIMANOUCHI:

6 Q What is your name and address, Witness?

7 A YOKOI, Tadao, 2327 Midori-ga-oka, Meguro-ku,
8 Tokyo.

9 MR. SHIMANOUCHI: May the witness be shown
10 defense document No. 2671?

11 (Whereupon, a document was handed to the
12 witness.)

13 Q Is that your affidavit?

14 A Yes.

15 Q Are the contents thereof true and correct?

16 A Yes.

17 MR. SHIMANOUCHI: I offer in evidence defense
18 document 2761.

19 ACTING PRESIDENT: It will be admitted in
20 evidence.

21 CLERK OF THE COURT: Defense document 2671 will
22 receive exhibit No. 3507.

23 (Whereupon, the document above
24 referred to was marked defense exhibit
25 No. 3507 and received in evidence.)

1 T A D A O Y O K O I, called as a witness on behalf
2 of the defense, being first duly sworn, testified
3 through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. SHIMANOUCI:

6 Q What is your name and address, Witness?

7 A YOKOI, Tadao, 2327 Midori-ga-oka, Meguro-ku,
8 Tokyo.

9 MR. SHIMANOUCI: May the witness be shown
10 defense document No. 2671?

11 (Whereupon, a document was handed to the
12 witness.)

13 Q Is that your affidavit?

14 A Yes.

15 Q Are the contents thereof true and correct?

16 A Yes.

17 MR. SHIMANOUCI: I offer in evidence defense
18 document 2761.

19 ACTING PRESIDENT: It will be admitted in
20 evidence.

21 CLERK OF THE COURT: Defense document 2671 will
22 receive exhibit No. 3507.

23 (Whereupon, the document above
24 referred to was marked defense exhibit
25 No. 3507 and received in evidence.)

1 cannot say for sure whether there was anything else
2 added to this telegram or whether parts of this
3 telegram are exactly as represented here.

4 MR. TAVENNER: Just a moment. I offer in
5 evidence IPS document 3271.

6 MR. CUNNINGHAM: Just a minute, please.
7 I should like to object for the same reasons that I
8 objected to the other document and for the further
9 reason that there is no certification here that this
10 came from any authentic source and the witness not
11 having authenticated it. Therefore, under our rules
12 heretofore applied, it is objectionable as evidence
13 at this time.

14 ACTING PRESIDENT: The whole purport of the
15 document was admitted by the witness. The same rul-
16 ing as on the previous document. The objection is
17 overruled and the document admitted in evidence.

18 CLERK OF THE COURT: Prosecution document
19 3271 will receive exhibit 3515.
20

21 (Whereupon, the document above
22 referred to was marked prosecution exhibit
23 No. 3515 and received in evidence.)

24 MR. TAVENNER: I will read exhibit 3515:

25 "Explanation concerning War Ministry tele-
gram, No. 236:

1 cannot say for sure whether there was anything else
2 added to this telegram or whether parts of this
3 telegram are exactly as represented here.

4 MR. TAVENNER: Just a moment. I offer in
5 evidence IPS document 3271.

6 MR. CUNNINGHAM: Just a minute, please.
7 I should like to object for the same reasons that I
8 objected to the other document and for the further
9 reason that there is no certification here that this
10 came from any authentic source and the witness not
11 having authenticated it. Therefore, under our rules
12 heretofore applied, it is objectionable as evidence
13 at this time.

14 ACTING PRESIDENT: The whole purport of the
15 document was admitted by the witness. The same rul-
16 ing as on the previous document. The objection is
17 overruled and the document admitted in evidence.

18 CLERK OF THE COURT: Prosecution document
19 3271 will receive exhibit 3515.
20

21 (Whereupon, the document above
22 referred to was marked prosecution exhibit
23 No. 3515 and received in evidence.)

24 MR. TAVENNER: I will read exhibit 3515:

25 "Explanation concerning War Ministry tele-
gram, No. 236:

in July, 1939?

1 A Yes, he was.

2 Q Do you recall, and is it not a fact, that some-
3 time in July Captain ENDO made an explanation of the
4 position of the Japanese Navy in regard to the strength-
5 ening of the Anti-Comintern Pact to the Chief Secretary
6 of the German Navy Ministry, wherein he stated that if
7 war should break out between Germany-Italy and England-
8 France it would be fine if Japan maintained a friendly
9 neutrality, and that upon learning of this from
10 Captain ENDO you became very angry and inquired of
11 Stahmer if Ribbentrop knew that?
12

13 A No, that is not so.

14 Q What office in Germany was held by Wiehl?

15 A He was Director of the Commerce Trade Bureau.

16 Q Did you have a conference with him in Berlin
17 on 21 December 1938 in which he informed you that
18 Ribbentrop insisted that preferred treatment be given
19 Germany as compared with third powers in China, and
20 that this should be stipulated in writing in the
21 Pro-Memoria regarding German-Japanese cooperation in
22 China?
23

24 A I have no recollection.

25 Q Let me see if I can refresh your recollection.
Did not Wiehl stress in that conference the fact that
Germany was entitled to a preferential treatment, not

1 A No, he was not.

2 Q Just a moment -- and you advised him to express
3 his views clearly to MATSUOKA, didn't you?

4 A No. If I were to give him any advice or
5 express my views I would first have to know the contents
6 of the German proposal and what MATSUOKA said in
7 regard thereto.

8 Q Well, didn't you advise him to express his
9 views clearly to MATSUOKA?

10 A No, that was not an advice. I made just such
11 a reply to a question that he put to me, in the course
12 of the conversation.

13 Q Then you are drawing a distinction between
14 advising him to do a thing and telling him to do it?

15 A No, I am not making any distinctions,
16 necessarily. But I am stating that I gave him no advice.
17 I do not think that I gave him any advice.

18 THE INTERPRETER: I will repeat the last
19 answer given by the witness:

20 A I am not making any distinctions necessarily.
21 I am only saying that I do not have any feeling I gave
22 any advice.

23 Q Was MATSUOKA or either of the diplomatic
24 councilors of the Foreign Office -- SHIRATORI and
25 SAITO -- present at this conference at the German

1 but at that time I did not realize that there were
2 as many opponents to such a pact as I learned through
3 the information presented before this Tribunal.

4 Q Now, what means were used by the leaders
5 in the Japanese Government to silence this opposition?

6 A Being an outsider, I knew nothing.

7 Q Well, is it not true that you do know that
8 an Imperial edict was secured which had the effect of
9 compelling the Japanese nation to follow the provisions
10 of the Tripartite Alliance, and didn't you so inform
11 Hitler or Ribbentrop?

12 A No, I made no such report, but I think it
13 was only natural that the Imperial Rescript expressed
14 the inclination of the people at large -- no, I made
15 no such report, but this Imperial Rescript was used
16 for the purpose of uniting the people as one, and of
17 this fact I informed the leaders of Germany upon my
18 return to that country.

19 Q Did you advise that the Emperor be used in
20 this manner?

21 A Being an outsider, I had no connection with
22 such matters.

23 Q Exhibit 562, page 6,429 of the transcript,
24 is a telegram from Ambassador Ott of 31 January 1939,
25 in which it is stated, "Unity of government and nation

1 allowed to make a copy. In the present case, however,
2 an extraordinary occasion arose, in which the witness,
3 as compiler of the "History of the Manchurian Incident",
4 was authorized to make as many copies as he liked.
5 If any of the copies so made in the course of his duty
6 remains today and is identified by him as such, is
7 it not the next best evidence, in the absence of the
8 original, and as authentic as any copy attested by a
9 Government office? This is not the present case and in
10 the absence of the original or copies, these statements
11 from two different sources attest to what were in the
12 original telegrams and were made before one of the highest
13 international tribunals of the time.

14 In conclusion, it is respectfully submitted
15 that the whole matter rests upon the credibility of
16 the witness, as to what he has previously testified
17 to, which may be attacked by means of cross-examination,
18 but not by the objection to the admissibility of
19 evidence as to what was in the originals, not in copies,
20 but in the originals.

21 As to relevancy and materiality of the
22 telegrams embodied in these copies, it goes without
23 saying that they have a great bearing on MINAMI's case.
24 Although some of them show the attitude of the General
25 Staff, which did not exactly concur with that of the

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All the accused are present
4 except MATSUI who is represented by counsel. We have
5 a certificate from the prison surgeon at Sugamo certi-
6 fying that he is ill and unable to attend the trial
7 today. The certificate will be recorded and filed.

8 - - -

9 A K I R A M U T O, an accused, resumed the stand
10 and testified through Japanese interpreters as
11 follows:

12 MR. HOZUMI: I should like to continue my
13 questions which I began yesterday.

14 ACTING PRESIDENT: Proceed.

15 DIRECT EXAMINATION (Continued)

16 BY MR. HOZUMI (Continued):

17 Q Just before the recess you told me that General
18 TOJO proceeded to the Palace without any knowledge of his
19 of being ordered to form a cabinet. Was your answer
20 complete or have you anything to add to that statement?

21 A I have completed my reply.

22 Q I shall proceed to the next question.

23 ACTING PRESIDENT: There is a loose connection.

24 THE INTERPRETER: Mr. Witness, just before the
25 recess you said that General TOJO proceeded to the Palace

1 A K I R A M U T O, an accused, resumed the stand
2 and testified through Japanese interpreters as
3 follows:

4 MR. TAVENNER: If the Tribunal please, I regret
5 to advise you that upon doctor's orders Mr. Lopez will
6 not continue the cross-examination of this witness. If
7 it is the Tribunal's pleasure, Mr. English will con-
8 tinue with the cross-examination.

9 ACTING PRESIDENT: Mr. Cole.

10 MR. COLE: May it please the Tribunal, I
11 sincerely regret the illness of Mr. Lopez and I don't,
12 under any circumstances, want to extract any advantage
13 from it. I mean no discourtesy to him or to the prose-
14 cution in general in making objection to the proposed
15 procedure.

16 The cross-examination of the accused has already
17 been interrupted and further or continuation of that
18 interruption will certainly harm no one. The Tribunal
19 has already ruled very definitely in regard to cross-
20 examination of any witness, let alone an accused, by
21 more than one prosecutor. The latest instance of
22 which I am aware is that which arose in the case of
23 the accused ITAGAKI at which time the Tribunal refused
24 a similar request on record page 30,485. Briefly, I
25 feel that it is a distinct disadvantage not alone to

1 Z E N S H I R O H O S H I N A, called as a witness
2 on behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. SOMIYA:

6 Q Witness, state your name and address to the
7 Tribunal.

8 A My name is HOSHINA, Zenshiro. My address is
9 No. 959 Tamagawa Nakamachi, 1-Chome, Setagaya-ku, Tokyo.

10 MR. SOMIYA: May the witness be shown defense
11 document No. 2737?

12 (Whereupon, a document was handed
13 to the witness.)

14 Q Is that your affidavit, made by you?

15 A Yes.

16 Q Are the contents thereof true and correct?

17 A Yes.

18 MR. SOMIYA: I present in evidence defense
19 document No. 2737.

20 ACTING PRESIDENT: Captain Robinson.

21 CAPTAIN ROBINSON: Mr. President and Members
22 of the Tribunal, the prosecution has no objection to
23 defense document 2737 except to paragraph 4 at page 2.
24 The ground of the objection is that this statement is not
25 a statement of fact but is merely the opinion and

1 Z E N S H I R O H O S H I N A, called as a witness
2 on behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. SOMIYA:

6 Q Witness, state your name and address to the
7 Tribunal.

8 A My name is HOSHINA, Zenshiro. My address is
9 No. 959 Tamagawa Nakamachi, 1-Chome, Setagaya-ku, Tokyo.

10 MR. SOMIYA: May the witness be shown defense
11 document No. 2737?

12 (Whereupon, a document was handed
13 to the witness.)

14 Q Is that your affidavit, made by you?

15 A Yes.

16 Q Are the contents thereof true and correct?

17 A Yes.

18 MR. SOMIYA: I present in evidence defense
19 document No. 2737.

20 ACTING PRESIDENT: Captain Robinson.

21 CAPTAIN ROBINSON: Mr. President and Members
22 of the Tribunal, the prosecution has no objection to
23 defense document 2737 except to paragraph 4 at page 2.
24 The ground of the objection is that this statement is not
25 a statement of fact but is merely the opinion and

conclusion of the witness on an issue which is within the exclusive jurisdiction of this Tribunal.

ACTING PRESIDENT: Is that your only objection?

CAPTAIN ROBINSON: Yes, it is.

ACTING PRESIDENT: The objection is sustained as to paragraph 4; otherwise the document will be admitted into evidence.

CLERK OF THE COURT: Defense document 2737 will receive exhibit No. 3468.

(Whereupon, the document above referred to was marked defense exhibit No. 3468 and received in evidence.)

MR. SOMIYA: I now read exhibit 3468:

"1. I am former Vice Admiral in the Navy. I was Chief of Military Preparations Bureau, Navy Ministry, from November 15, 1940 to May 1945. On May 15, 1945, I assumed the post of Chief of Naval Affairs Bureau, and held that position up to November 17, 1945. Therefore, I am familiar with the duties of Chief of Naval Affairs Bureau.

"2. The Naval Affairs Bureau, as set forth in the government-established organization of Navy Ministry, like other bureaus in the Navy Ministry, is subject to the commands and orders of the Navy Minister, and functions under the direct supervision of the Vice Navy

1 anyone else with regard to dropping your proposed
2 amendment from the note that was to go to the United
3 States?

4 A Yes.

5 Q Therefore, you gave up without protest your
6 belief that the note in the form in which it later
7 actually was sent to the United States was not an
8 ultimatum, not in accordance with yours and Admiral
9 OKA's belief that Japan must fight fairly and above-
10 board. Is not that the result of the statement that
11 you presented in your affidavit?

12 MR. ROBERTS: I object on the ground that
13 this is apparently a statement -- not a question.
14 If it is a question it has already been answered
15 by the witness.

16 ACTING PRESIDENT: Objection sustained.

17 Q Just one further question. You stated a
18 moment ago, Mr. Witness, that you did not have in
19 mind the German ultimatum of 1914, that is, the
20 Japanese ultimatum to Germany in 1914, when you
21 proposed this amendment. I have just one question
22 on that point.

23 Was your failure to take into consideration
24 the ultimatum of Japan to Germany of August 1914 due to
25 your lack of knowledge about that ultimatum or due

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Page 1, paragraph 13 of the affidavit,
the sentence beginning "As the War Minister" down
to "diplomatic matters:" exhibit 1104, page 10,081;
exhibit 2219, page 15,841; exhibit 2218, page
15,837; exhibit 2216, page 15,832.

Again, page 17, paragraph beginning "As
for the problems" down to "independence:" exhibit
1104, page 10,081.

Same page, paragraph beginning "These
explanations" down to "Nations:" same exhibit.

Page 19 -- I am not quite sure in which
of the sections on this page that part is. It is
either the end of 13 or the beginning of 14 --
paragraph beginning "Standing from the League" down
to witnesses:" exhibit 2222, page 15,845.

Page 20, section 14-A, paragraph beginning
"To cope with this" down to "Soviet Union:" exhibit
668, page 7,332; exhibit 670, page 7,331.

Page 20 again, second section,
paragraph beginning "I do not admit" down to
"expression:" exhibit 746, page 7,720; exhibit 747
page 7,727; exhibit 671-A, page 7,336;

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

I beg your pardon -- page 35, section 24, paragraph
beginning "My duty as Education Minister" down to
"meeting;" exhibits 2218, page 15,837; 2219, page
15,841; 271, page 3,640; 1291, page 11,695; 491,
page 6037.

2761 will receive exhibit No. 3470.

(Whereupon, the document above referred to was marked defense exhibit No. 3470 and received in evidence.)

MR. ROBERTS: I shall read exhibit 3470, omitting the formal parts:

"I was a former Admiral in the Navy. I was appointed Navy Minister in the Third KONOYE Cabinet on July 18, 1941, and served in that capacity until the said Cabinet resigned on October 16, 1941. During my tenure of office, OKA, Takazumi, was the Director of the Naval Affairs Bureau.

"I attended the Liaison Conferences between the Imperial Headquarters and the Government. This was a gathering of the high ranking men in the Supreme Command, that is, Chief of Army General Staff, Chief of Naval General Staff, Deputy Chiefs of both Staffs and the Cabinet Ministers, representing the Government, in order to bring about an understanding between the political functions and the Supreme Command. The meeting was not formally arranged, the discussions were informal, and no votes were taken. The matters which were unanimously agreed upon at the Liaison Conference were carried out by Government organs or the Supreme

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"I attended the Liaison Conferences between the Imperial Headquarters and the Government. This was a gathering of the high ranking men in the Supreme Command, that is, Chief of Army General Staff, Chief of Naval General Staff, Deputy Chiefs of both Staffs and the Cabinet Ministers, representing the Government, in order to bring about an understanding between the political functions and the Supreme Command. The meeting was not formally arranged, the discussions were informal, and no votes were taken. The matters which were unanimously agreed upon at the Liaison Conference were carried out by Government organs or the Supreme

1 MR. ROBERTS: It is a correction merely,
2 your Honor.

3 ACTING PRESIDENT: All right, you can
4 correct it at the proper time.

5 BY CAPTAIN ROBINSON:

6 Q Now a final question, Mr. Witness:

7 You refer in your affidavit, at page 4, to
8 Prince KONOYE and the navy. At the middle of the
9 page you state, and I quote your words:

10 "Needless to say, the navy did all it
11 could to avoid war with the United States. And this
12 sentiment among naval circles was communicated to
13 Premier KONOYE"; and dropping down a few sentences:
14 "As the Prime Minister too" -- that is, KONOYE --
15 "was of exactly the same opinion as the navy..."

16 Now, as a matter of fact, is it not true
17 that Prince KONOYE on or about October 16, 1941, the
18 day when his cabinet, including yourself, went out of
19 office, said this? "It is indeed cowardly of the
20 navy not to avow its opposition to war with America."

21 A I have never heard of Prince KONOYE making
22 such a statement.

23 Q And are you aware, Mr. Witness, of the fact
24 that the defendant KIDO stated in this courtroom, upon
25 cross-examination by the Chief of Counsel, that the

1 THE PRESIDENT: Mr. Sutton.

2 MR. SUTTON: May it please the Tribunal,
3 the prosecution first objects to the long and detailed
4 statement made by counsel in presenting this document.

5 THE PRESIDENT: It would save reading it if
6 it is admitted, of course.

7 MR. BROOKS: Your Honor, I submit there is
8 nothing that I could not have said on an opening state-
9 ment, and I did not intend to read it. That is why
10 I made the statement.

11 MR. SUTTON: The prosecution objects to
12 this document on the ground that it is immaterial and
13 irrelevant to any of the issues involved in this case.
14 Had the document been pertinent, it should have been
15 tendered in the general phase. The Tribunal has here-
16 tofore rejected evidence tending to prove the circum-
17 stances surrounding the use of the atomic bomb, record
18 page 17,655 to 17,662.

19 MR. BROOKS: The Court will notice this is
20 not confined to the atomic bomb alone, and it is
21 specifically covering the period of KOISO's holding
22 office as Premier from 1944. It does not cover the
23 years from 1928 to 1945, the end of the war.

24 THE PRESIDENT: By a majority, the objection
25 is upheld and the document rejected.

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corresponding pages in the record.

1 as the motion and perhaps longer, because of what I
2 consider to be the numerous misstatements of fact
3 which must be corrected by references to the record.

4 THE PRESIDENT: Do you make any exception
5 of KITA's case?

6 MR. BLAKENEY: Exceptions?

7 THE PRESIDENT: Yes. Are you objecting to
8 the production of his affidavit or to its being used,
9 seeing that he is dead according to the evidence
10 before us?

11 MR. BLAKENEY: Yes, of course, we do object
12 to the reception of that affidavit as well as others
13 in similar case, some of which the Tribunal ruled
14 would be accepted de bene esse.

15 THE PRESIDENT: Well, I think we are quite
16 prepared to give you till Monday morning to reply.

17 MR. BLAKENEY: Thank you.

18 THE PRESIDENT: The Tribunal would like to
19 know why it is not possible to have any witness, any
20 affiant, who is still alive produced here in Tokyo.
21 I know security reasons have been stated, but we need
22 some amplification of that.

23 I know how absolute in our own courts such a
24 pronouncement would be by, say, a foreign secretary
25 or a person of that standing, but here in this Court

1 MR. BROOKS: Now, if the Tribunal please, at
2 this time I wish to refer to the counts of the
3 Indictment in which MINAMI is not named.

4 ACTING PRESIDENT: I don't see how that is
5 material at this time, Captain Brooks.

6 MR. BROOKS: I have not concluded, your
7 Honor, the presentation of MINAMI's case. We only
8 postponed it for this.

9 MR. COMYNS CARR: Nevertheless, in my submis-
10 sion this is a matter for summation and not to be
11 dealt with here today.

12 ACTING PRESIDENT: You can refer us to cer-
13 tain pages of the transcript or something of that kind,
14 but so far as the various counts of the Indictment are
15 concerned, that is not material at this time. It is
16 a question for summation.

17 MR. BROOKS: I am making this reference to
18 the counts in which MINAMI is not charged in the
19 Indictment for the reason that I am not offering evi-
20 dence on these counts, although the prosecution in
21 certain instances has made references to evidence
22 in matters in which the accused has not been charged,
23 and I think --

24 ACTING PRESIDENT: That is a matter for argu-
25 ment in your summation.

1 The point deals with the wholly erroneous con-
2 tention that the order of June 17 was a final decision
3 for rejection of affidavits as to which the deponents
4 were not produced for cross-examination. May I be
5 permitted to make a rebuttal reply to this new point?

6 ACTING PRESIDENT: Go ahead.

7 MR. TAVENNER: Certainly counsel, who at his
8 request was given from Thursday until today to prepare
9 his reply, must know and understand that the order of
10 June 17 was not final.

11 It is divided into two parts. The first part
12 orders the prosecution to produce for cross-examination
13 certain witnesses within a period of two months, or
14 within such longer period as may on cause shown be
15 approved by the Tribunal.

16 The second part is that, alternatively, that
17 is, if the deponents are not produced, the prosecution
18 shall give convincing reasons within the said period
19 as to why they are not able to produce the witnesses.

20 The language of this alternative provision of
21 the order is meaningless unless it means precisely what
22 it says, namely, that the prosecution may be heard on
23 the reasons why it is not able to produce certain wit-
24 nesses, and it is incomprehensible that counsel should
25 seriously contend otherwise.

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pages and should be substituted for the
corresponding pages in the record.

1 MR. COLE: I will read exhibit 3441.

2 "I, JAMES EDWARD WALSH, being first duly
3 sworn, on oath, depose and say:

4 "That I am now, and was at all times herein
5 mentioned, a Bishop of the Roman Catholic Church belong-
6 ing to and affiliated with the Catholic Foreign Mis-
7 sion Society of America, also known as the Maryknoll
8 Society; that at the time of the happening of the
9 occurrence of the facts herein related I was Superior
10 General of the said Maryknoll Society;

11 "That General MUTO, Akira occupied the posi-
12 tion of Director of the Central Bureau of Military
13 Affairs, with his office in Tokyo, at the time when I
14 made his acquaintance. The following statement con-
15 tains the facts that are known to me regarding the
16 part taken by General MUTO in the peace negotiations
17 of 1941.

18 "1. In late November, 1940, Father James M.
19 Drought of Maryknoll (since deceased) and the under-
20 signed were in Japan. While in Tokyo, we were asked
21 by Mr. MATSUOKA, then Minister of Foreign Affairs, if
22 we would take a message to Washington to the effect
23 that the Japanese Government wished to negotiate a
24 peace agreement. As far as I recall, Mr. MATSUOKA
25 was not very definite about the terms of such an

1 agreement. We were told by other officials and
2 spokesmen that the Japanese Government proposed as
3 basic terms of the agreement on their part: (1) a
4 guarantee to nullify their participation in the Axis
5 Pact, if not public repudiation, at least in some
6 definite manner that would be effective and complete,
7 and (2) a guarantee to recall all military forces from
8 China and to restore to China its geographical and
9 political integrity. Other conditions bearing on the
10 relations of Japan and the United States were to be
11 explored and agreed upon in the conversations that it
12 was hoped would ensue. These additional conditions,
13 largely economic in nature, were also discussed with
14 us; by Mr. MATSUOKA to some little extent, but at
15 greater length and with more detail by other repre-
16 sentatives of the Japanese Government, among whom Mr.
17 Tadao IKAWA (since deceased) known to us as a friend
18 and unofficial representative of the then Prime Min-
19 ister, Prince KONOYE (also since deceased) was the
20 most assiduous. Father Drought carried on most of
21 the conversations, as I was largely occupied with
22 missionary affairs.

23 "... We agreed to take the message, provided
24
25

1 that some assurances would be forthcoming from repre-
2 sentatives of the Japanese Army and Navy regarding the
3 Japanese unanimity of purpose in reaching an agree-
4 ment and carrying it out.

5 "My line-a-day diary records the fact that
6 Father Drought and the undersigned were introduced to
7 General MUTO by Tadao IKAWA on December 27, 1940.
8 General MUTO was then Chief of the Central Bureau of
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1 Military Affairs. We met him at his office in Tokyo.
2 He did not appear to speak English, and neither Father
3 Drought nor the undersigned understood Japanese.
4 Accordingly, General MUTO spoke in Japanese, and Mr.
5 IKAWA translated his statements into English for us
6 then and there. I, the undersigned, made no record of
7 the conversation at the time, and I cannot pretend to
8 recall now with complete precision the exact words that
9 General MUTO used. I recall distinctly, however, the
10 substance of what General MUTO said, particularly the
11 following statements: (1) that he and his associates
12 in the Japanese Army were in accord with the efforts
13 to reach a peace agreement, and (2) that he would do
14 all in his power to further and assist the efforts to
15 conclude a peace agreement. From this interview Father
16 Drought and I received the impression that General
17 MUTO was pledging himself -- and as far as it lay in
18 his power, the Army he represented -- to concurrence
19 in the proposed undertaking.

20 "I do not recall that the actual terms of the
21 proposed agreement were discussed with General MUTO,
22 although it is quite possible that they were. The
23 interview lasted for some time -- perhaps twenty minutes,
24 perhaps a half hour; the conversation was leisurely
25 and fairly lengthy, and in its course various pertinent

1 points were touched upon. There may have been some
2 mention of the terms. However, I am unable to assert
3 of my own present knowledge that the terms were dis-
4 cussed. I have tried hard to recall this circumstance,
5 but I possess no distinct recollection in regard to
6 this particular point.

7 "I seem to recall, though rather vaguely,
8 that Father Drought had seen some representative of the
9 Japanese Navy some days previously, and had received
10 a similar assurance on behalf of the Navy. I do not
11 recall who this representative of the Navy was, although
12 I think that Father Drought must have mentioned his
13 name to me at the time.

14 "It had been represented to us from the begin-
15 ning, chiefly by Mr. IKAWA but also by others, that the
16 peace proposals not only had the concurrence of the
17 Prime Minister (Prince KONOYE), but were largely a
18 matter of his initiation. We were told that we would
19 be taken to see the Prime Minister before leaving, if
20 we agreed to go to Washington. It was also made known
21 to us that the proponents of the plan would feel more
22 assurance if Father Drought and I both made the journey
23 to Washington in person.

24 "Father Drought and I had booked tentatively
25 on a ship to return to America. It was to sail from

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19 be taken to see the Prime Minister before leaving, if
20 we agreed to go to Washington. It was also made known
21 to us that the proponents of the plan would feel more
22 assurance if Father Drought and I both made the journey
23 to Washington in person.

24 "Father Drought and I had booked tentatively
25 on a ship to return to America. It was to sail from

1 Yokohama on December 28, 1940. The evening before
2 the ship was to sail (later on the same day of our
3 visit to General MUTO) we were taken to the Prime Min-
4 ister's office in Tokyo to see him. The Prime Minis-
5 ter was out at the time of our call, and we sailed the
6 next day (December 28th) without seeing him. Our ship
7 was the Nitta Maru.

8 "2. Father Drought and I proceeded to New
9 York, arriving there January 13, 1941. We got in touch
10 with Mr. Hull, the Secretary of State, as promptly as
11 we could. Mr. Hull arranged to have us explain the
12 Japanese proposals in the presence of President Roose-
13 velt and himself. On Thursday, January 23, 1941, we
14 were in Washington, where we explained the matter to
15 the best of our ability to the President and Mr. Hull.
16 Mr. Frank C. Walker, the Postmaster General, was also
17 present at the meeting, which took place in the Presi-
18 dent's office. The meeting lasted something like two
19 and a half hours, perhaps slightly longer; and a lengthy
20 explanation was given. The president and the Secretary
21 of State thanked us for the trouble we had taken, and
22 said they would take the matter under advisement.

23 "I believe it was shortly after this interview
24 that our Government decided to investigate the Japanese
25 proposals, and entered into some conversations with

1 representatives of the Japanese Government relative to
2 the matter.

3 "3. In June, 1941, I went again to Japan
4 to resume my interrupted visitation of the Maryknoll
5 missionaries there and elsewhere in the Far East. I
6 sailed from San Francisco on June 5 and arrived in
7 Japan on June 19. I carried out a complete visitation
8 of our missionaries in Kyoto (Japan) and in Pyengyang
9 (Korea). I wished to proceed to Fushun (Manchuria)
10 for a similar visitation of our missionaries there, but
11 I was informed by the local police in Korea that I would
12 not be allowed to proceed to Manchuria. No reason was
13 given for the prohibition. I returned to Kyoto (Japan)
14 and had not been long there when I was sought out by
15 Mr. Tadao IKAWA. Mr. IKAWA had been sent to Washington
16 to take part in the peace agreement conversations, and
17 had now concluded his mission and returned to Japan. He
18 informed me that the peace proposals had encountered
19 difficulties, but that there was still some hope of a
20 successful termination. He asked me if I would lend
21 my assistance in continuing the negotiations, particu-
22 larly in the matter of helping to get messages to and
23 from the State Department in Washington and to and from
24 the American Embassy in Tokyo. On reflection I replied
25 that I would do so to the extent I considered proper,

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20 successful termination. He asked me if I would lend
21 my assistance in continuing the negotiations, particu-
22 larly in the matter of helping to get messages to and
23 from the State Department in Washington and to and from
24 the American Embassy in Tokyo. On reflection I replied
25 that I would do so to the extent I considered proper,

1 if the American Embassy approved my doing so. This
2 was in late August, 1941.

3 "On consulting Mr. Eugene Dooman at the
4 American Embassy in Tokyo, I was advised that my
5 cooperation in the capacity outlined might prove useful,
6 and I understood that I was more or less encouraged to
7 perform this little function of helping to transmit
8 information when need arose. I understood also that
9 Mr. Dooman consulted Mr. Grew, the Ambassador, about
10 this procedure and obtained his approval for it.

11 "Mr. IKAWA and I then spent something like
12 two months in facilitating the exchange of information
13 and messages between the Japanese Government, on the
14 one hand, and the United States Government as represent-
15 ed by the State Department in Washington and the American
16 Embassy in Tokyo, on the other. There were many mes-
17 sages. All the messages for the State Department for-
18 warding through my agency were sent by me by cablegram,
19 under my own name and in plain English, but concealed
20 under missionary phraseology, to Father Trought at
21 Maryknoll, New York, for transmission to the officials
22 of the State Department. All the messages for the
23 American Embassy in Tokyo were taken to the Embassy
24 personally by me and given to Mr. Eugene Dooman by word
25 of mouth.

1 "During this period I lived partly at the
2 Fujiya Hotel in Miyanoshita, and partly at the Beach
3 Hotel in Kamakura, sometimes in the company of Mr.
4 Tadao IKAWA and sometimes alone. Mr. IKAWA awakened
5 me very early one morning in the hotel at Miyanoshita
6 and said that he thought it would be safer if we changed
7 our place of residence. He explained that some of the
8 extremist elements might make trouble for us if we
9 remained. I understood him to refer, not to the ordin-
10 ary people but to the militaristic and pro-Nazi elements
11 in the government or the army or both. I distinctly
12 recall Mr. IKAWA's statement at this time to the effect
13 that General MUTO was protecting our activities and
14 would continue to do so to the best of his ability.
15 However, he also said that it was not possible to safe-
16 guard us against every possible eventuality, so we re-
17 moved at once to Kamakura.

18 "At Kamakura I continued for another month to
19 transmit messages in the manner already described. I
20 did not see General MUTO during this period, nor again
21 at any time...

22 "4. On October 14, 1941, I was asked by
23 Mr. IKAWA if I would take another message from the
24 Prime Minister (Prince KONOYE) to President Roosevelt
25 in Washington. I said I would consider it. I went to

1 The reasons why certain witnesses could not
2 be produced were explained first in the chambers
3 hearing of August 20, and were restated by Chief of
4 Counsel on October 16, the day before the witnesses
5 were to be produced. Mr. Furness, who, with Mr.
6 Blakeney, has been taking the lead in the defense
7 opposition to this matter, said, on October 16, that
8 he assumed, and I quote, "If the Court is considering
9 changing its order, it will hear arguments from the
10 defense with regard to it," the Tribunal having already
11 announced that it would consider the matter.

12 The position of the prosecution is that the
13 combined action of the prosecution, defense, and the
14 Tribunal tolled the running of the time element of the
15 order, and therefore the order did not become final.
16 If the explanation as to why the prosecution is not
17 able to produce the five, or I should say, six wit-
18 nesses is considered adequate, then, it is submitted,
19 the affidavit should be considered in evidence, and
20 the order of June 17 will have been fully complied
21 with. If the Tribunal concludes that convincing
22 reasons have not been given for the non-production of
23 the six witnesses, nevertheless, the prosecution respect-
24 fully submits, our Charter provisions and the Nuern-
25 berg rule should be held to govern. The prosecution

1 ACTING PRESIDENT: Wait until the Tribunal
2 gets copies.

3 Proceed.

4 MR. LOPEZ: (Reading) "Strictly confidential.
5 Telegram sent by Chief of Military Affairs Bureau to
6 Colonel IWAKURO, 2 June.

7 "1. According to the information which is
8 reportedly given by President Roosevelt to the Repre-
9 sentatives of Congress, in his 'fireside chats,' the
10 aim of the President in adopting a new conciliatory
11 policy towards Japan is the transfer of the Pacific
12 Fleet to the Atlantic Ocean. According to the said
13 explanation, the U. S. seems to be possessed of a
14 specially strong wishful thinking in judging that
15 Japan will refuse to perform her duty of attacking the
16 U. S. under the Tri-Partite Alliance even in case of
17 the United States' entry into the war.

18 "2. In his 'fireside chats' he concluded
19 that the European war had already developed into a
20 world war and openly stated that the patrolling of
21 the United States had been greatly strengthened and
22 that every possible effort should be made in insuring
23 that goods necessary to England reach her safely.
24 At the same time, he expressed words of praise re-
25 garding Chiang Kai-shek for his continued resistance

document 2686.

1 MR. LOPEZ: If the Tribunal please, no objection
2 except to the last sentence of paragraph 1, page 1, as
3 being a conclusion; subparagraph 2 of paragraph 1
4 because it refers exclusively to HOSHINO; and, like-
5 wise, to the second and third sentences of subparagraph
6 3 on page 2.

7 ACTING PRESIDENT: Would you repeat that last
8 sentence again?

9 MR. LOPEZ: To the second and third sentences
10 of subparagraph 3 on page 2.

11 ACTING PRESIDENT: There are only two sentences
12 in the paragraph, that I can see.

13 MR. LOPEZ: Subparagraph 3 of paragraph 3,
14 starting with the sentence, "They seemed to have had
15 internal hardships..." until the words "...still deeply
16 impressed on me," as being the conclusion and opinion
17 of the witness.

18 ACTING PRESIDENT: Is the HOSHINO referred
19 to in subparagraph 2 of paragraph 1 one of the accused?

20 MR. COLE: Yes, that is right.

21 I will agree to omit the reading of those
22 sentences objected to.

23 ACTING PRESIDENT: The affidavit will be admitted
24 in evidence.
25

YAMAMOTO

DIRECT
CROSS

33,020

1 that if the Japan-American negotiations should be
2 concluded, the emergency measures which had been taken
3 would be cancelled and the situation would be restored
4 to a normal condition. I remember it was in the
5 middle of November that both chiefs of bureaus told
6 me that although an instruction had already been issued
7 to the dispatched troops, simultaneously with the
8 conclusion of the negotiations, all emergency measures
9 should be immediately stopped. They were making their
10 best efforts in avoiding any fault in this respect,
11 as this was a most difficult work to be smoothly carried
12 through."

13 You may cross-examine.

14 MR. LOPEZ: If the Tribunal please.

15 CROSS-EXAMINATION

16 BY MR. LOPEZ:

17 Q You are the same YAMAMOTO, Chief of the
18 American Bureau of the Foreign Office, who had constant
19 telephonic conversations with KURUSU at Washington
20 and you at Tokyo in October, November and December of
21 1941?
22

23 A Yes.

24 Q You constantly gave instructions to Ambassador
25 KURUSU by telephone, using codes, did you not?

A I have contacted Ambassador KURUSU via the

YAMAMOTO

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33,020

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6 me that although an instruction had already been issued
7 to the dispatched troops, simultaneously with the
8 conclusion of the negotiations, all emergency measures
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19 telephonic conversations with KURUSU at Washington
20 and you at Tokyo in October, November and December of
21 1941?
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23 A Yes.

24 Q You constantly gave instructions to Ambassador
25 KURUSU by telephone, using codes, did you not?

A I have contacted Ambassador KURUSU via the

day.

1 MR. BROOKS: If the Tribunal please, to save
2 time, couldn't they be copied into the record, both of
3 them? The others were not, the other day. They were
4 ordered to be but they were not. I think it would
5 save time if those could be copied into the record.
6

7 ACTING PRESIDENT: They may be copied into the
8 record. See that the court reporter has a copy and
9 that they are included in the record.

10 (The following are the language corrections

11 above mentioned and the exhibit as corrected:)

12 Record page 4356, line 17, delete "autonomic"
13 and substitute "self-governing."

14 Record page 4356, line 19, delete "controller"
15 and substitute "controlling leader."

16 Record page 4357, line 18, delete "construction"
17 and substitute "constructive."

18 Record page 4357, lines 18, 19, delete "in that
19 locality later with pacification" and substitute "on the
20 spot following the quieting down of."

21 Record page 4357, line 23, delete "Chinese
22 Nationality" and substitute "the Han race."

23 Record page 4358, lines 1-5, delete "where this
24 action would be taken as anti-revolutionary and an anti-
25 democratic stratagem is beyond our imagination" and

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

"From: Foreign Minister SAIDEMARA

"To Consul General KUWASHIMA at TIENTSIN.

"Sent on 1 November 1931

"Concerning movement to restore to the Throne
Emperor Hsuen Tung.

"Telegram No. 81 (Code, Urgent. Top Secret)

"Re: Your Telegram No. 453.

"1. As our negotiation with the Chinese
side on the present incident does not seem to
progress smoothly, it is desirable that we on
our part should, for the time being, replete
the workings of the organs in charge of the main-
tenance of public order and gradually control the
inner regions in the same way. As to the security
of our rights and interest, which heretofore have
been infringed, we have no other means than to
have the South Manchurian Railway Company and
such others take up the matter as a practical
problem of commercial transactions with the Chinese
side. Moreover, I feel that with the progress
of time, these self-governing organs would
gradually develop and as a matter of course
would all unite by amalgamation or by the election
of a controlling leader or such other means.

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All of the accused are
4 present except SHIRATORI, who is represented by counsel.
5 We have a certificate from the prison surgeon at
6 Sugamo, certifying that he is ill and unable to
7 attend the trial today. This certificate will be
8 recorded and filed.

9 Mr. Chief of Counsel.

10 - - -

11
12 S H I G E N O R I T O G O, an accused, resumed
13 the stand and testified through Japanese
14 interpreters as follows:

15 CROSS-EXAMINATION (Continued)

16 BY MR. KEENAN (Continued):

17 Q At the conclusion of the last court session I
18 was referring to statements made by you concerning the
19 activities of HOSHINO and I believe that you recalled
20 that you did not have any recollection as to his using
21 the word "approved." Do you agree that he did say
22 that he did not desire the relaxation of the Japanese
23 conditions regarding the talks with the United States?

24 THE PRESIDENT: Mr. Howard.

25 MR. HOWARD: The question asked by the Chief of

1 seeking to obtain from this witness under oath now
2 his own knowledge of what actually did happen. That
3 is what I am trying to bring out, and of course, the
4 other statements are preliminary of that purpose.
5 We have been reminded many times, Mr. President, of
6 the absence of a jury in these proceedings.

7 THE PRESIDENT: The matters mentioned by
8 Mr. Toward certainly impose no restrictions on the
9 cross-examination. The objection is overruled and
10 the question allowed.

11 BY MR. KEENAN (Continued):

12 Q Did the accused HOSHINO on the occasion
13 referred to state that he did not desire a relaxation
14 of the Japanese conditions regarding the talks with
15 the United States?

16 A In my recollection the question of stationing
17 troops in China was discussed and adopted at a Liaison
18 conference and at that time HOSHINO stated that at the
19 outset the stationing of troops was necessary.

20 Q Were you asked this question, and did you give
21 this answer:

22 "Q In addition, I presume that this Planning
23 Board was created not only for the situation of war,
24 which prevailed in China, but in case of the necessity
25 of becoming involved in a war with other countries?"

And did you answer:

1 "A It might be said that the Planning Board
2 was created also because of the eventuality or the
3 probability of war with other countries."

4 A I do recall that such exchange of question
5 and answer took place, but before the question was
6 asked I think that I made a reservation to the effect
7 that the meaning of war as used there was in the broad
8 sense and that war preparations were being spoken of
9 in the very broadest sense of the term.

10 Q Was the fact true as stated?

11 A Yes, with the reservations attached thereto.

12 Q Were you asked this question and did you give
13 this answer:

14 "Q In his debate prior to November 26th did
15 HOSHINO indicate that the negotiations with relation
16 to the United States should be terminated?"

17 "A I recall his saying that the Japanese-
18 American talks will not reach a successful culmination."

19 Were you asked that question, and did you
20 give that answer?

21 A I think that refers to the first conferences
22 of the Liaison Conference and in my recollection he
23 said that negotiations would be futile. That was his
24 general, over-all prospects or predictions of the
25

1 given, and the extent of the outpost of the various
2 countries involved?

3 A With means of communication very highly
4 developed as they were, I regarded that it would
5 not take more than ten minutes for Washington to
6 telephone its various representatives and outposts in
7 the field and, furthermore, not more than fifteen
8 minutes would be required for Washington to notify
9 Great Britain. This is one of the reasons why I
10 strongly advocated to the High Command that the
11 notification not be delivered in Tokyo but in
12 Washington.

13 Q And did you pay any attention to the fact
14 that this notice, as you call it, was to be given on
15 a Sunday, a day of worship in the United States of
16 America, where the bureaus were ordinarily closed?

17 A I knew very well that it was a Sunday, but
18 the organs of the United States Government were giving
19 very great importance to the situation and, as a
20 matter of fact, the President of the United States
21 had returned to Washington from a hot springs resort
22 in view of that situation; and so it was our view that
23 Washington was following the situation very closely
24 and sharply.

25 Q The Hitlerian tactics of week-end excursions

1 above, the information obtained as to the attitude of
2 the United States and Great Britain is of the utmost
3 importance. For it will show that the exercise of the
4 right of self-defense was regrettable but an unavoidable
5 course of action which the then leaders of Japan were
6 driven to take. After November the Supreme Command of
7 Japan was considering that a forestalling attack might
8 perchance be made by the Americans at any time.

9 THE PRESIDENT: We will recess for fifteen
10 minutes.

11 (Whereupon, at 1445, a recess was
12 taken until 1500, after which the proceedings
13 were resumed as follows:)

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1 defendants, that he had always been strictly obedient
2 to the desires of the Emperor. It will also be proved
3 that he laid before the Throne the matter of obtain-
4 int the Imperial sanction for commutation of death
5 sentences imposed upon enemy fliers who raided Tokyo.
6 This act of his he believed to be in accordance with
7 the Emperor's gracious desires.

8 At this stage of the TOJO case, no other
9 witness will be called other than TOJO himself, who
10 will take the stand to give his own testimony. We
11 are to submit several documents, nearly all of which
12 are either those cited in the TOJO affidavit or
13 those certifying to nonavailability of the original
14 texts of the documents referred to in TOJO's state-
15 ment, in compliance with the regulations of this
16 Tribunal.

1 "c. Policy vis-a-vis China. With respect to
2 China, it was decided to prevent assistance to Chiang
3 Kai-shek and eliminate hostile elements. This strategy
4 was adopted because the reasons for the delay in the
5 solution of the China Incident were thought to be,
6 first, Chungking's underestimate of Japan's national
7 strength, and, second, active assistance to Chiang Kai-
8 shek by third powers. It was therefore absolutely
9 necessary that the supply route between America and
10 Britain and Chiang's regime be severed.

11 "d. The Problem of the Southern Region. The
12 strengthening of national defense against the Soviet
13 Union, and the establishment of a self-sufficient nation
14 were two absolutely essential problems facing Japan at
15 that time. The obstacles blocking the accomplishment of
16 these crucial objectives were (1) the China Incident and
17 (2) pressure from America and Britain. With particular
18 reference to the second obstacle, the controlling factor
19 to be borne in mind was that Japan relied upon America
20 and Britain for the major portion of her imports of
21 essential materials. Once these were cut off the very
22 existence of the nation was endangered. Consequently
23 this problem was viewed with the utmost concern in con-
24 junction with the solution of the China Incident. It
25 was believed that this critical problem could be solved

1 Lord Keeper of the Privy Seal, KIDO, and as I also felt
2 it but proper to bring my opinion to the knowledge of
3 the Senior Statesmen, I requested SATO, who at the time
4 was Chief of the Military Affairs Section, to transmit
5 this opinion to ABE and HAYASHI, and he did so. I was
6 advised that SATO transmitted to these men only the
7 message that I had entrusted to him and nothing more,
8 and that the two senior statesmen listened to him report
9 this message with no comment. I say here with quite
10 some determination that the testimony of TANAKA on that
11 point has no factual foundation whatsoever.

12 "My reason for advocating a member of the Royal
13 blood to head the Cabinet was this: The new Cabinet
14 soon after its formation shall be placed in a position
15 to revise and alter the decision of 6 September. Any
16 Cabinet decision taken by the outgoing Cabinet may be
17 reversed by the incoming Cabinet. But the decision of
18 the Imperial Conference is of a different nature, i.e.,
19 it is a decision arrived at by the highest formality
20 involving the participation of the Government as well
21 as the High Command. It was feared that a most per-
22 plexing situation would arise in case the High Command
23 refused to consent the revision or alteration of the
24 decision of 6 September. In such an eventuality
25 a Cabinet headed by one of the Royal blood, by reason

1 today consists of the Han race, the restoration of
2 Emperor Hsuen Tung would be unpopular in Manchuria proper.
3 More so, the influence of such an event in China proper
4 as well as in other countries under such slogans as
5 anti-revolutionary and as anti-democratic stratagem, is
6 more than can be imagined. In which event it would create
7 a situation likely to make it impossible, ever in the
8 future, to reach an understanding between Japan and
9 China. In any case we can only say that the Restoration
10 to the throne of Emperor Hsuen Tung is a plan which
11 cannot be termed in any way other than completely
12 anachronistic, and I feel that in the future the above
13 will bear great evil in the future management over
14 Manchuria and Mongolia by our Empire.

15 "4. Also, Liu-Huan-Yeh referred to in tele-
16 gram No. 1016 despatched from Mukden and addressed to
17 this Minister, is at present staying in Japan investi-
18 gating the opinion of all quarters and it seems that
19 he has met with strong opposition. Actually the War
20 Minister MINAMI is inclined to oppose the scheme and
21 Lieutenant-General SAKANISHI, it seems, has explained
22 to Liu-Huan-Yeh that his scheme is anachronistic and
23 has requested prudence of the Emperor.

24 "5. Such being the case, I ask you to keep
25 the above well in mind and do your utmost to stop the

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1 abduction plan of Emperor Hsuen Lung on one hand, and
2 on the other hand earnestly propose to the Emperor in
3 a suitable way to be really prudent, and I also ask
4 to be on guard.

5 "This telegram has been relayed to the
6 Minister to China, to Peking, and to Mukden."

7 ACTING PRESIDENT: Mr. Cunningham.

8 MR. CUNNINGHAM: If the Tribunal please, in view
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we disallow it, because it is our duty to do so.

1 MR. CUNNINGHAM: Well, then, may I ask that the
2 statement upon which the question is based be stricken
3 from the affidavit for the reason that it is an opinion
4 likewise and a conclusion of the witness and should
5 not be part of his evidence?
6

7 THE PRESIDENT: He will not be prejudiced by
8 any misstatement he has made of the law. The matter
9 is closed.

10 MR. CUNNINGHAM: I want to state that I did not
11 wish the matter to go unchallenged.

12 THE PRESIDENT: Major Blakeney.

13 MR. BLAKENEY: I wish to cross-examine briefly
14 on behalf of Mr. TOGO.

15 CROSS-EXAMINATION

16 BY MR. BLAKENEY:

17 Q You have been cross-examined rather extensively
18 yesterday and today on the question of whether Proposals
19 A and B of the 5th of November, 1941, were Japan's last
20 word. Now, you heard the testimony of the defendant
21 TOGO here, did you not?

22 A Yes, I did.

23 Q And do you remember his testimony concerning
24 a conversation which he had with you on the morning of
25 the 2nd of November relative to action to be taken in

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2 statement upon which the question is based be stricken
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18 yesterday and today on the question of whether Proposals
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20 word. Now, you heard the testimony of the defendant
21 TOGO here, did you not?

22 A Yes, I did.

23 Q And do you remember his testimony concerning
24 a conversation which he had with you on the morning of
25 the 2nd of November relative to action to be taken in

tude of the Japanese Government before Hitler's speech.

1 I now offer in evidence for identification
2 only IPS document 4035, Item 4, a captured German
3 document which is a telegram from the German Ambassador
4 in Tokyo to the State Secretary, bearing date 30 April,
5 1939; and I offer in evidence IPS document No. 4035,
6 Item 4A, an excerpt therefrom in contradiction of the
7 foregoing testimony of ITAGAKI.
8

9 MR. SHIMANOUCHI: On behalf of the defendant
10 OSHIMA I object to this document on three grounds.
11 This document has no relevancy or materiality with
12 regard to OSHIMA's case. The contents of this docu-
13 ment are nothing more than hearsay. This document --
14 the third reason is that this document was not shown
15 to the witness KAWABE, Torashiro or defendant OSHIMA
16 or defendant ITAGAKI. KAWABE, Torashiro was a Mil-
17 itary Attache. From the number of this document it is
18 clear that this document was in the possession of
19 the prosecution before October last year, 1946.

20 THE PRESIDENT: We think it unimportant. You
21 do not want to argue it, do you? The objection is sus-
22 tained and the document rejected. We will adjourn
23 until nine-thirty tomorrow morning.
24

25 (Whereupon, at 1600, an adjournment
was taken until Thursday, 15 January, 1948
at 0930.)

1 "From: Foreign Minister SHIDEHARA

2 "To Consul General KUWASHIMA at TIENTSIN."

3 THE PRESIDENT: You have already gone through
4 that.

5 MR. SUTTON: (Reading continued)

6 "Sent on 1 November 1931

7 "Concerning movement to restore to the
8 Throne Emperor Hsuen Tung.

9 "Telegram No. 81 (Code, Urgent. Top secret)

10 "Re: Your Telegram No. 453.

11 "1. As our negotiation with the Chinese
12 side on the present incident does not seem to progress
13 smoothly, it is desirable that we on our part should,
14 for the time being, replete the workings of the organs
15 in charge of the maintenance of public order and
16 gradually control the inner regions in the same way.
17 As to the security of our rights and interest, which
18 heretofore have been infringed, we have no other means
19 than to have the South Manchurian Railway Company and
20 such others take up the matter as a practical problem
21 of commercial transactions with the Chinese side. More-
22 over, I feel that with the progress of time, these self-
23 governing organs would gradually develop and as a matter
24 of course would all unite by amalgamation or by the
25 election of a controlling leader or other such means.

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1 (Of course, if we can bring about our desired state of
2 affairs through negotiation with the Chinese side, it
3 would be far better.)

4 "2. However, to form an independent state in
5 Manchuria at this time would immediately raise a question
6 as being contrary to Section 1, Article 1 of the Washing-
7 ton Nine Power Pact and would most certainly cause a
8 great dispute among American and other signatory powers
9 of the said Pact. (The Central Military also assents
10 to this point.) And, although the emergence of Emperor
11 Hsuen Tung is not immediately connected with the
12 founding of an independent country, other powers might
13 interpret the matter as though we are planning to create
14 an Independent State of Manchuria. (Even if we make it
15 in the form of a voluntary escape of the Emperor, the
16 other Powers are not likely to believe this, and it is
17 extremely difficult to keep incidents of this kind in
18 secrecy.) In any case, the abduction of the Emperor at
19 this time would bring us into the most unfavorable situa-
20 tion in face of the Session of the Board of Directors on
21 16 November, and world opinion will again be incensed,
22 and our scheme to carry out gradually our actual construc-
23 tive work on the spot following the quieting down of
24 world opinion would be greatly handicapped.

25 "3. Moreover, taking into consideration the
26 fact that almost the whole population of Manchuria of

1 today consists of the Han race, the restoration of
2 Emperor Hsuen Tung would be unpopular in Manchuria proper,
3 More so, the influence of such an event in where this
4 action would be taken as anti-revolutionary and an
5 anti-democratic stratagem is beyond our imagination, in
6 which event it would create a situation likely to make
7 it impossible ever in the future to reach an under-
8 standing between Japan and China. In any case we can
9 only say that the Restoration to the throne of Emperor
10 Hsuen Tung is a plan which cannot be termed in any other
11 way than completely anachronistic, and I feel that in
12 the future the above will bear great evil in the future
13 management over Manchuria and Mongolia by our Empire.

14 "4. Also, Liu-Huan-Yeh referred to in tele-
15 gram No. 1016 despatched from Mukden and addressed to
16 this Ministry, is at present investigating the opinion
17 of all quarters and it seems that he has met with strong
18 opposition. Actually the War Minister MINAMI is inclined
19 to oppose the scheme and Lieutenant-General SAKANISHI,
20 it seems, has explained to Liu-Huan-Yeh that his scheme
21 is anachronistic and has requested prudence of the
22 Emperor.

23 "5. Such being the case, I ask you to keep the
24 above well in mind and do your utmost to stop the
25 abduction plan of Emperor Hsuen Lung on one hand, and

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1 on the other hand earnestly propose to the Emperor in
2 a suitable way to be really prudent, and I also ask you
3 to be on guard.

4 "This telegram has been relayed to the Minister
5 to China, to Peking, and to Mukden."
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1219, Okamoto-Machi, Setagaya, Tokyo.

1 "2. At the time of the Mukden Incident of
2 September 18th, 1931, I was the Foreign Minister,
3 while General MINAMI was the War Minister, both being
4 members of the WAKATSUKI Cabinet.

5 "On the morning of September 19, i.e., the
6 next day after the outbreak of the Incident, an extra-
7 ordinary Cabinet meeting was called. On that occa-
8 sion, I reported the receipt of a telegram from the
9 Japanese Consul-General in Mukden to the Foreign
10 Office, stating that a little after 10 o'clock of the
11 18th the Chinese troops had blown up the South Man-
12 churian Railway lines in the vicinity of Liutiokuo,
13 Mukden -- (end reading)

14 That is misspelled there. It should be:
15 L-i-u (dash) T'-i-a-u (dash) K-o-u.
16

17 (Reading continued):

18 -- and clashed with our railway garrison.
19 War Minister MINAMI then reported that he also had
20 received a similar telegram from the Kwantung Army.
21 As these telegraphic reports from the district con-
22 cerned were very brief, the situation was too obscure
23 for the government to make any judgment at that time.
24 (end reading)

25 I would like to submit here, if the Court

1 substitute", under such slogans as anti-revolutionary
2 and as anti-democratic stratagem, is more than can be
3 imagined."

4 Also, delete "Moreover, it would make it quite
5 impossible for us to reach an understanding with China
6 forever in the future" and substitute "In which event,
7 it would create a situation likely to make it impossible.
8 ever in the future, to reach an understanding between
9 Japan and China."

10 Record page 4358, lines 7-8, delete "quite
11 erroneous of time" and substitute "which can not be
12 termed in any way other than completely anachronistic."

13 Record page 4358, lines 11-12, delete "Accord-
14 ing to telegram No. 1016 addressed to me, Liu-Huan-Yeh
15 at present is" and substitute "Also, Liu-Huan-Yeh
16 referred to in telegram No. 1016 dispatched from Mukden
17 and addressed to this Minister, is at present."

18 Record page 4358, line 14, delete "Even" and
19 substitute "Actually."

20 Record page 4358, line 17, delete "erroneous
21 of time" and substitute "anachronistic."

22 Record page 4358, line 23, insert "really"
23 between "be" and "prudent."
24
25

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1 on the other hand earnestly propose to the Emperor in
2 a suitable way to be really prudent, and I also ask
3 to be on guard.

4 "This telegram has been relayed to the
5 Minister to China, to Peking, and to Mukden."

6 ACTING PRESIDENT: Mr. Cunningham.

7 MR. CUNNINGHAM: If the Tribunal please, in view
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1 Q Well, you had a conversation with Mr.
2 Hallett Abend in Shanghai in January 1938?

3 A Yes, I saw him twice.

4 Q And you sent for him?

5 A Having heard various reports at that time
6 I met Mr. Abend to hear from him what he had heard
7 and also on the basis of the facts that I knew to
8 impart the factual information that I had in my
9 possession to him.

10 Q In other words, you wanted to quell the
11 rumors that were abroad in the land at that time?

12 A Well, "quell" is hardly the word to be used
13 in such an instance as this. My desire was to see
14 that the truth and the facts was reported.

15 Q The only reason I use the word is because
16 you used it at page 3,463 of the record, in exhibit
17 257. You were asked in your interrogation this
18 question:

19 "Q When did you first see Hallett Abend after
20 the Nanking capture?"

21 The answer was:

22 "A I met him in China. I first met Mr. Abend
23 after, perhaps a month after, Nanking."

24 "Q Did Mr. Abend ask for an interview and get it?

25 "A No, I requested Mr. Abend to see me as I had

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1 heard rumors and I wished to quell these by putting
2 the facts before Mr. Abend."

3 Is that what took place, General MATSUI?

4 A Yes.

5 Q And what rumors are you referring to when
6 you mention this conversation with Mr. Abend?

7 A Well, as you, Mr. Prosecutor, have suggested,
8 as referring to the many outrages alleged to have been
9 committed by the Japanese troops in Nanking, and my
10 desire was to tell Mr. Abend of the truth of the
11 situation as I believed it, and although there were
12 many foreign correspondents in Shanghai at the time,
13 I felt that Mr. Abend was the most trustworthy of
14 these correspondents and therefore I met him.

15 Q Who was alleging that these atrocities had
16 been committed?

17 A Well, as to who were talking about these
18 outrages, I cannot say concretely but I should think
19 that the sources of such rumors were for the most part
20 Chinese and foreigners who had heard from Chinese who
21 were passing on the information, perhaps in fun.

22 Q Well, apart from the funny side of it,
23 who passed on the information to you?

24 A Well, who it was I do not now recall, but
25 it was one of my subordinates.

1 heard rumors and I wished to quell these by putting
2 the facts before Mr. Abend."

3 Is that what took place, General MATSUI?

4 A Yes.

5 Q And what rumors are you referring to when
6 you mention this conversation with Mr. Abend?

7 A Well, as you, Mr. Prosecutor, have suggested,
8 as referring to the many outrages alleged to have been
9 committed by the Japanese troops in Nanking, and my
10 desire was to tell Mr. Abend of the truth of the
11 situation as I believed it, and although there were
12 many foreign correspondents in Shanghai at the time,
13 I felt that Mr. Abend was the most trustworthy of
14 these correspondents and therefore I met him.

15 Q Who was alleging that these atrocities had
16 been committed?

17 A Well, as to who were talking about these
18 outrages, I cannot say concretely but I should think
19 that the sources of such rumors were for the most part
20 Chinese and foreigners who had heard from Chinese who
21 were passing on the information, perhaps in fun.

22 Q Well, apart from the funny side of it,
23 who passed on the information to you?

24 A Well, who it was I do not now recall, but
25 it was one of my subordinates.

1

Q Probably your Chief of Staff?

2

A Yes.

3

4

Q Now, you were going to tell Mr. Abend what the facts were so that there would be no misapprehension about the true state of affairs?

6

7

A Yes.

8

9

Q But you had received no report of your investigators at this time?

10

11

A No, but I had been receiving fragmentary reports.

12

Q Fragmentary reports? From whom?

13

A I am referring to reports of the gendarmerie.

14

15

Q Did you receive more than one report from the gendarmerie?

16

17

A I myself did not receive them directly but my staff officers were receiving them daily.

18

Q Daily since the fall of Nanking?

19

A Yes.

20

21

Q And those reports were, of course, communicated to you as the Commander in Chief of the Army, weren't they?

22

23

24

25

A As the gendarmerie were not my direct subordinates, but the subordinates of the Commanders of the Armies, the reports were made to those Commanders and not to me.

1 Q And what did the Commanders of the Armies
2 do with the reports when they received them from
3 the Kempeitai?

4 A When the facts were clearly unraveled and
5 known, the offender was tried at a court martial
6 and punished.

7 Q Now, just to go back a moment: You mention
8 fragmentary reports from the Kempeitai in the hands
9 of your staff officers. You mean staff officers on
10 your staff as Commander in Chief, do you not?

11 A Yes.

12 Q And those reports were brought to your knowledge?

13 A Ordinarily discipline and morals within an
14 army was the responsibility of the Division Commander.
15 The Commander of the Army above the Division Commanders
16 supervised these Division Commanders and maintained
17 the court martial under his jurisdiction. I was above
18 them. I was the Commander above them and my Area Army
19 Headquarters had no legal organ nor any military police
20 or gendarmerie under its direct control, and therefore
21 reports were not made to my headquarters or to me
22 directly. It would be more proper to say that the
23 facts were brought to my attention or communicated
24 to me for reference purposes.
25

1 ACTING PRESIDENT: I don't think we care to
2 hear any more of your argument, Mr. Carr.

3 Captain Brooks, inasmuch as Colonel Warren has
4 brought up the point that the documents presented by
5 the prosecution go beyond the scope of the witness'
6 affidavit, I think it would be convenient for the
7 Court to hear your argument on that point now.

8 MR. BROOKS: I would first like to state from
9 the record, at page 19,891, that in relation to these
10 documents which the prosecution were supposedly cross-
11 examining MINAMI on, as we suspected at that time, the
12 prosecution should have put these documents into evidence
13 if the witness denied them. To make it clear what the
14 ruling of the Court might be in such a case, I stated
15 as follows at line 7 on page 19,891:
16

17 "Mr. Brooks: I take it, your Honor, that if
18 the prosecution asks the witness on a document that he
19 says he has, as to what the witness has stated, and the
20 witness states he does not or he doesn't say it, the
21 prosecution is bound by the answer unless the prosecu-
22 tion puts the document into evidence to show that he
23 didn't state otherwise."

24 Mr. Comyns Carr interrupted and said:

25 "Your Honor, nobody would dispute that proposi-
tion, but the question is, at what stage it is proper to

1 the Liaison Conference, well, I am inclined to feel
2 that way also.

3 Q You have also heard it testified here, have
4 you not, by one of your co-defendants that copies of
5 that document were distributed in the Liaison Conference?

6 A No, I don't believe it.

7 Q You mean you don't believe it has been so
8 testified or you don't believe it was done?

9 A I do not believe the fact.

10 Q Upon being interrogated by the International
11 Prosecution Section prior to the commencement of
12 these proceedings were you asked whether you had seen
13 that draft? And did you reply that you had?

14 A Well, I somewhat recall that, but at that
15 time my recollections themselves were very vague.

16 Q You recall that you did say it, but you think
17 your recollection is better now, is that it?

18 A At that time when I was interrogated on
19 various questions I had not thoroughly surveyed and
20 studied the situation on which I was being interrogated.
21 Later, as a result of trying to recall my memory, I
22 have come to the result which I have already spoken
23 to you about in connection with my present state -- the
24 present state of my recollection.
25

Q Now, your present recollection is, then, that

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

CROSS-EXAMINATION

1 BY MR, SUTTON:

2 Q When you arrived in Berlin in March 1938
3 did you learn that the Japanese Military Attache,
4 General OSHIMA, was working for the strengthening
5 of the Anti-Comintern Pact?
6

7 MR. CUNNINGHAM: We object to that for the
8 reason that that is the line that was eliminated
9 from the affidavit in order to avoid a lengthy cross-
10 examination upon that subject.

11 THE PRESIDENT:: That does not make the cross-
12 examination inadmissible. The defense cannot control
13 the cross-examination in that way.

14 The objection is overruled and the question
15 allowed.

16 A If by when I arrived in Berlin you mean on
17 the very day that I arrived in Berlin, your question
18 is somewhat wrong, because I meant that it was after
19 some time had elapsed after my arrival in Berlin that
20 I learned of this.

21 Q When did you learn of this?

22 A Some time in March.

23 Q Is it not a fact that the Military Attache,
24 OSHIMA, was at the time negotiating directly with
25 Foreign Minister Ribbentrop without informing Ambassa-

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1 MR. BLAKENEY: As proof of the details of the
2 d, fendant TOGO's absence from Tokyo and from his office
3 at the time of Italy's entrance into the Anti-Comintern
4 Pact, I offer in evidence defense document 2866, a For-
5 eign Minister's certificate.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document 2866
8 will receive exhibit No. 3616.

9 (Whereupon the document above re-
10 ferred to was marked defense exhibit No. 3616
11 and received in evidence.)

12 MR. BLAKENEY: I might state, without reading
13 it, that it shows that he was ordered on a trip to
14 Manchukuo on the 7th of October and actually left on
15 the 10th of October, 1937.

16 The next witness is KAMEYAMA, Kazuji whose
17 affidavit is defense document 2753. This witness has
18 previously testified before the Tribunal.

19 MARSHAL OF THE COURT: Mr. President, the
20 witness KAMEYAMA is in court. He has previously been
21 sworn before this Tribunal.

22 THE PRESIDENT: You are still on your former
23 oath.
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20 witness KAMEYAMA is in court. He has previously been
21 sworn before this Tribunal.

22 THE PRESIDENT: You are still on your former
23 oath.
24
25

1 A Well, this is an old opinion of mine. For
2 instance, I have always -- I, myself, have always
3 been opposed and disliked the idea of an active army
4 officer becoming Prime Minister.

5 Q I am not interested, Mr. Witness, in you
6 trying to excuse yourself. I am asking you a date,
7 When did you form that opinion?

8 A I think from about the time of the conclusion
9 of the Tripartite Alliance.

10 Q At the time of the conclusion of the Tri-
11 partite Alliance you thought that the TOJO Cabinet was
12 formed and organized for military action?

13 A Of course not. The Tripartite Military
14 Alliance was concluded before the organization of the
15 TOJO Cabinet?

16 Q Mr. Witness, I am asking you a very simple
17 question. I want a date. When did you form the
18 opinion that the TOJO Cabinet was organized for mili-
19 tary action?

20 A Well, I have no recollection as to the exact
21 date -- what day of what month.

22 Q Well, was it 1945 or 1941?

23 A Well, no, that was 1941.

24 Q Now, what month was it in 1941?

25 A Well, that is the way I thought about the